

Dane County Contract Cover Sheet

Revised 07/2023

Res 360
signed 3/22/23

BAF # 23025
Acct: Seitz
Mgr: Odorfer
Budget Y/N: N

| | | | |
|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-------|
| Dept./Division | Human Services / Housing Access and Affordability | | |
| Vendor Name | Northpointe Development II Corporation | MUNIS # | 30878 |
| Brief Contract Title/Description | Sky Ridge - Sun Prairie LLC will construct an affordable rental housing project. The project will contain 75 units, 5 of the units will be HOME-assisted units. | | |
| Contract Term | Date of signature - 20 years from project completion | | |
| Contract Amount | \$ 600,000.00 | | |

| | |
|----------------------------------------|----------------------|
| Contract # Admin will assign | 15319 |
| Type of Contract | |
| <input type="checkbox"/> | Dane County Contract |
| <input type="checkbox"/> | Intergovernmental |
| <input type="checkbox"/> | County Lessee |
| <input type="checkbox"/> | County Lessor |
| <input type="checkbox"/> | Purchase of Property |
| <input type="checkbox"/> | Property Sale |
| <input type="checkbox"/> | Grant |
| <input checked="" type="checkbox"/> | Other |

| Department Contact Information | | Vendor Contact Information | |
|--------------------------------|------------------------------------------------|----------------------------|-------------------------|
| Name | Spring Larson, Contract Coordination Assistant | Name | Sean O'Brien |
| Phone # | 608-242-6391 | Phone # | 608-334-5665 |
| Email | dcdhscontracts@countyofdane.com | Email | sean@northpointedev.com |
| Purchasing Officer | | | |

| | | |
|-----------------------------|--------------------------------------------------------------------------------------------------------|-------------------------|
| Purchasing Authority | <input type="checkbox"/> \$12,000 or under – Best Judgment (1 quote required) | |
| | <input type="checkbox"/> Between \$12,000 – \$43,000 (\$0 – \$25,000 Public Works) (3 quotes required) | |
| | <input checked="" type="checkbox"/> Over \$43,000 (\$25,000 Public Works) (Formal RFB/RFP required) | RFB/RFP # 122050 |
| | <input type="checkbox"/> Bid Waiver – \$43,000 or under (\$25,000 or under Public Works) | |
| | <input type="checkbox"/> Bid Waiver – Over \$43,000 (N/A to Public Works) | |
| | <input type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other | |

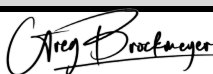
| | | | | | |
|-------------------|-------------------|--------------------|-------------------|-------------------|---------------|
| MUNIS Req. | Req # 3042 | Org: CDHOME | Obj: 33160 | Proj: HM23 | \$ 600,000.00 |
| | Year 2023 | Org: | Obj: | Proj: | |
| | | Org: | Obj: | Proj: | |

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| Budget Amendment | |
| <input type="checkbox"/> | A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly. |

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|-------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|------------------|
| Resolution Required if contract exceeds \$100,000 | <input type="checkbox"/> Contract does not exceed \$100,000 | |
| | <input checked="" type="checkbox"/> Contract exceeds \$100,000 – resolution required. | Res # 360 |
| | <input checked="" type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet. | Year 2022 |

| | | |
|---------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------|
| CONTRACT MODIFICATIONS – Standard Terms and Conditions | | |
| <input type="checkbox"/> No modifications. | <input type="checkbox"/> Modifications and reviewed by: | <input type="checkbox"/> Non-standard Contract |

| | |
|-----------------------------------------|----------------------------------------------------------------------------|
| APPROVAL | |
| Dept. Head / Authorized Designee | |
| Iheukumere, Astra | Digitally signed by Iheukumere, Astra Date: 2024.01.26 18:13:39 -06'00' |

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|-------------------------------------------------------------------------------------|----------------------------|
| APPROVAL – Contracts Exceeding \$100,000 | |
| Director of Administration | Corporation Counsel |
|  | SHR 1.26.24 |

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|-------------------------------------------------------------------------------------------------|-------------------------|------------------------|-------------------------------------------------------------------------------------------|
| APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached | | | |
| DOA: | Date In: 1/29/24 | Date Out: _____ | <input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management |

Goldade, Michelle

From: Goldade, Michelle
Sent: Thursday, February 1, 2024 2:57 PM
To: Hicklin, Charles; Rogan, Megan; Gault, David
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #15319
Attachments: 15319.pdf

| Tracking: | Recipient | Read | Response |
|------------------|------------------|------------------------|----------------------------|
| | Hicklin, Charles | Read: 2/1/2024 3:14 PM | Approve: 2/1/2024 3:15 PM |
| | Rogan, Megan | Read: 2/1/2024 3:08 PM | Approve: 2/1/2024 3:08 PM |
| | Gault, David | Read: 2/1/2024 3:08 PM | Approve: 2/6/2024 12:29 PM |
| | Stavn, Stephanie | Read: 2/1/2024 3:56 PM | |
| | Oby, Joe | | |

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #15319

Department: Human Services

Vendor: Northpointe Development II Corporation

Contract Description: Construct Affordable Rental Housing for seniors (Res 360, signed 3/22/23)

Contract Term: 2/1/24 – 12/31/44

Contract Amount: \$600,000.00

Michelle Goldade

Administrative Manager

Dane County Department of Administration

Room 425, City-County Building

210 Martin Luther King, Jr. Boulevard

Madison, WI 53703

PH: 608/266-4941

Fax: 608/266-4425

TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays.

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2022 RES-360

**APPROVAL OF THE 2023 ANNUAL ACTION PLAN FUNDING RECOMMENDATIONS
DCDHS – HAA DIVISION**

Dane County is an Entitlement Community under two U.S. Department of Housing and Urban Development (HUD) programs: the Community Development Block Grant (CDBG) and the Home Investment Partnerships (HOME). CDBG funds are intended to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low-and-moderate income persons. The intent of the HOME Program is to expand the supply of decent, safe, sanitary and affordable housing, with primary attention to rental housing for very low-income and low-income families.

HUD regulations require the development of a Consolidated Plan every five years to provide an overall framework for the investment of grant funds and an Annual Plan that governs the recommended projects for the upcoming year. The current Consolidated Plan was approved by the County Board and the County Executive in July 2020 and covers a five-year time period through December 31, 2024.

The development of the Annual Plan is based on the priorities identified in the Consolidated Plan and from public hearings held on March 29, 2022 and February 21, 2023 soliciting citizen input. The County established a competitive application process for the allocation of the projected grant funds. Applications for 2023 CDBG and HOME funds were solicited beginning May 17, 2022 and due July 1, 2022. The Application Review Team, a subcommittee of the CDBG Commission, met in August and September 2022 to hear presentations by the applicants and to make initial recommendations to the full CDBG Commission. The CDBG Commission made its preliminary recommendations at its January 10, 2023 meeting.

A draft of the 2023 Annual Plan Funding Recommendations and Notice of Public Hearing was published in the WI State Journal and posted on the County web site beginning on January 21, 2023 for public review and comment. Following the public hearing for citizen input regarding the 2023 Annual Plan Funding Recommendations, the CDBG Commission finalized the following recommendations at their February 21, 2023 meeting:

| Applicant | Activity | CDBG | HOME |
|----------------------------------------------|-----------------------------------------------|-------------|-------------|
| Affordable Dental Care, Inc. | Affordable Dental Care (ADC) | \$200,000 | |
| Centro Hispano, Inc. | Caminos InnoTech Career Pathways | \$0 | |
| Connecting the Dots with Mattie Incorporated | Public Services -CV | \$37,598.67 | |
| Geocko, Inc. dba LiveStories | Dane County Microenterprise Capacity Building | \$50,000 | |
| Habitat for Humanity of Dane County, Inc. | Homebuilding | | \$520,000 |
| JT Klein Company, Inc. | 38Ten Parmenter II | | \$0 |

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|------------------------------------------------------------------|---------------------------------------------------------|-----------|-----------|
| Latino Academy of Workforce Development, Inc. | Transportation Business Development Accelerator Program | \$180,000 | |
| Latino Academy of Workforce Development, Inc. | Dane County Workforce Academy | \$12,256 | |
| Latino Chamber of Commerce of Dane County, Inc. | Building Latino Economic Success | \$105,000 | |
| Madison Black Chamber of Commerce, Inc. | B2EC Incubator and Program Expansion into Dane County | \$150,000 | |
| Madison Development Corporation | MDC 50-Unit-Century Ave | | \$0 |
| Movin' Out, Inc. | Movin' Out, Inc. Mortgage Reduction Assistance Program | \$206,500 | |
| NewBridge Madison, Inc. | LASSO #2 Proposal | \$25,000 | |
| NewBridge Madison, Inc. | LASSO | \$0 | |
| Northpointe Development II Corporation | Prairie Creek Senior Apartments and Townhomes | | \$600,000 |
| Northpointe Development II Corporation | Broadway Lofts and Townhomes | | \$307,469 |
| Omega School, Inc. | Dane Outreach for GED/HSED Services | \$30,000 | |
| Operation Fresh Start, Inc. | Affordable Home Ownership in Sun Prairie, WI | | \$120,000 |
| Project Home Inc. | Major Home Rehabilitation | \$200,000 | |
| Project Home Inc. | Minor Home Repair | \$150,000 | |
| Stoughton Affordable Transportation Program, Inc. | Affordable Transportation Program | \$4,000 | |
| Sunshine Place, Inc. | Public Services -CV | \$32,200 | |
| Sunshine Place, Inc. | The Bed Lady Program | \$9,000 | |
| Tenant Resource Center, Inc. | Eviction Diversion and Defense Partnership | \$25,000 | |
| UNIDOS Against Domestic Violence, Inc. | Domestic & Sexual Violence Direct Service Provision | \$50,000 | |
| The Wisconsin Partnership for Housing Development, Inc. | Homebuilding CHDO | | \$180,000 |
| Wisconsin Regional Training Partnership, Inc. and Big-Step, Inc. | Madison CARES | \$0 | |
| Wisconsin Women's Business Initiative Corporation | Microenterprise Development | \$125,000 | |
| YWCA Madison, Inc. | YW Transit | \$35,000 | |

31 All funding is contingent upon Federal action on these programs.

32 The CDBG Commission recommends that if there are not sufficient funds available for the
33 programs recommended for CDBG or HOME funding, that:

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- Decreases will be made to comply with the federal caps on administration, Community Housing Development Organization (CHDO), and public services funds;
 - Public services funds will receive an equal percentage reduction across the board;

37 • Funds available for reallocation, such as dollars unexpended from prior year contracts,
38 will be used to offset the cuts.

39 In the event of an increase in CDBG or HOME funds:

40 • Public Service projects recommended for funding will receive an equal percentage
41 increase in funding until the public services cap is met; no project will receive more than
42 its requested amount;

43 • Non-public service projects will receive an equal percentage increase, per federal caps
44 and requirements, up to the requested amount.

45 NOW, THEREFORE, BE IT RESOLVED that the County Executive is authorized to submit the
46 above referenced 2023 Annual Plan funding recommendations, as well as any amendments and
47 additional documentation to HUD relating to the 2023 Program Year CDBG and HOME grants;

48 BE IT FURTHER RESOLVED that the Dane County Executive and Dane County Clerk are hereby
49 authorized and directed to sign the appropriate contracts on behalf of Dane County; and,

50 BE IT FINALLY RESOLVED that the Dane County Controller is authorized to issue checks
51 necessary to implement the 2023 CDBG and HOME programs.

COUNTY OF DANE
HOME Investment Partnerships Program (HOME)
Owner, Sponsor or Developer (Non-CHDO) Agreement
(Federal Labor Standards – Exempt)

| | |
|-----------------------------------|-----------------------------------------------------------------|
| PROJECT NAME: | <u>Sky Ridge Apartment and Townhomes</u> |
| HOME Block Grant Number: | <u>M-23-UC-550210</u> |
| Grantee: | <u>County of Dane</u> |
| PROVIDER: | <u>Sky Ridge – Sun Prairie, LLC</u> |
| DEVELOPER'S Address: | <u>230 Ohio Street, Suite 200, Oshkosh, WI 54902</u> |
| Unique Entity Identification No.: | <u>JUGXJNKZB987</u> |
| CFDA: | <u>14.239</u> |
| Agreement No. | <u>15319</u> |
| Agreement Begin Date: | <u>The date upon which last party has signed this AGREEMENT</u> |
| Agreement Expiration Date: | <u>See Schedule A</u> |
| Authority: RES. | <u>2022 RES-360</u> |
| Maximum Loan Amount: | <u>\$600,000.00</u> |
| Purchase Order No: | <u></u> |
| Number of Pages: | <u>55</u> |
| Corporation Counsel Approval: | <u>SHR 1.26.24</u> |

This Loan AGREEMENT (hereafter "AGREEMENT") is made and entered into by and between the County of Dane (hereinafter "COUNTY"), whose principal office is located at 210 Martin Luther King Jr. Blvd, Room 421, Madison, WI 53703, and Sky Ridge – Sun Prairie, LLC (hereinafter "DEVELOPER") an entity duly organized and existing under the laws of the State of Wisconsin with its principal office located at 230 Ohio Street, Suite 200, Oshkosh, Wisconsin 54902. This AGREEMENT is effective on the day all parties have affixed their signatures hereto.

RECITALS

WHEREAS, COUNTY is the recipient of HOME Investment Partnerships Program (HOME) Funds from the U.S. Department of Housing and Urban Development (HUD), including funds that are reserved for the development of housing that will be affordable to low income families; and

WHEREAS, DEVELOPER is an entity duly organized and existing under the laws of the State of Wisconsin; and

WHEREAS, DEVELOPER owns, intends to purchase, or intends to lease for a period of at least 99 years vacant property the legal description of which is provided in Exhibit A, which is attached hereto and incorporated herein by reference, intends to develop five (5) units of affordable rental housing on that site, said affordable housing units to be part of a seventy-five (75) housing unit development (hereinafter, the "Development") as further described in Schedule A of this AGREEMENT; and

WHEREAS, COUNTY intends to lend \$600,000.00 in HOME funds to DEVELOPER with the understanding that said funds will be used for the construction of the five units of HOME eligible rental housing (hereinafter, the "Project") within said Development.

NOW, THEREFORE, in consideration of the above premises and the mutual covenants and obligations of the parties herein contained, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY, and DEVELOPER do agree as follows:

ARTICLE I: GENERAL TERMS OF AGREEMENT

1. PARTIES AND DEFINITIONS

A. Identity of Parties

| | |
|-----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| OWNER/DEVELOPER | Sky Ridge - Sun Prairie, LLC shall be both the owner and developer of the PROJECT during the development phase and will remain the owner during the entire affordability period; provided the DEVELOPER may engage Northpointe Development II Corporation to provide development services on its behalf. |
| COUNTY | Dane County, a municipal body corporate, is a "participating jurisdiction" under the Federal HOME Investment Partnership Program. For the purposes of this AGREEMENT, COUNTY is represented by the Dane County HOME Program, whose principal address is: Dane County – Room 421 Attn: CDBG & HOME Program 210 Martin Luther King Jr. Blvd Madison, WI 53703 |

B. Definitions:

| | |
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| ACT | HOME Investment Partnership Act at Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), as amended. (42 U.S.C. 12701 et seq.) Regulations published at 24 Code of Federal Regulations Part 92. |
| AFFORDABILITY PERIOD | The period of time, beginning at Project completion, during which the housing must meet the Affordability Requirements of 24 CFR §92.252 or §92.254, as applicable. |
| AFFORDABILITY REQUIREMENTS | The housing assisted with HOME funds must be occupied only by households that are eligible as low-income families and the housing must meet the requirements found in 24 CFR §92.252 or §92.254, as applicable. |
| AGREEMENT | This Loan AGREEMENT including the Schedules, Exhibits and other identified attachments, together with any future amendments, modifications, or alterations hereto |
| COMPLETION - CONSTRUCTION | On the date an occupancy permit is issued for each unit by the appropriate government jurisdiction. |
| COMPLETION - PROJECT | When all necessary title transfer requirements are met and construction work performed; the requirements of 24 CFR Part 92 have been met; the final drawdown of HOME funds has occurred; all required information has been entered into HUD's disbursement and information system in accordance with 24 CFR §92.504(d) |
| DEVELOPER | The Developer of the Project must assume sole charge of all aspects of the development process, including, but not limited to: obtaining zoning, securing non-HOME financing, selecting architects, engineers and general contractors, overseeing the progress of the work on the Project and determining the reasonableness of costs; provided the DEVELOPER may engage |

| | |
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| | Northpointe Development II Corporation to provide development services on its behalf. Furthermore, Developer must own the HOME-assisted housing during the development process and throughout the period of affordability. |
| DEVELOPMENT | The site and all of the improvements thereto, including the 5 units of low-income rental housing constructed with HOME FUNDS. The development as a whole shall be known as Sky Ridge Apartments and Townhomes. In this AGREEMENT the Development is also referred to as the "Property". |
| FAMILY | Has the same meaning as provided by 24 CFR 5.403. |
| HOME FUNDS (FUNDS) | Federal HOME monies lent by COUNTY to the DEVELOPER pursuant to the terms of this AGREEMENT. |
| HOME PROGRAM | HOME Investments Partnerships Program, enacted as part of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (42 U.S.C. 12701 et seq.). |
| HUD | The United States Department of Housing and Urban Development. |
| LOW-INCOME FAMILY | Families whose annual incomes do not exceed 80% of the median income for families living in Dane County, as determined by HUD, with adjustments for smaller and larger families. |
| OWNER | The Developer must own the development in fee simple absolute or pursuant to a long-term (at least 99-years) ground lease during the development of the housing and for a period of time after PROJECT completion at least equal to the Affordability Period. To qualify as the "owner" of a HOME project, the Owner must also oversee all aspects of the development process, either directly or by hiring or contracting with an experienced project manager. |
| PROJECT | A site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking under this part. The project includes all of the activities associated with the site and building. For Tenant-based rental assistance, project means assistance to one or more families. The PROJECT is described in detail in SCHEDULE A. |
| PROJECT MANAGER | Northpointe Development II Corporation 230 Ohio Street, Suite 200 Oshkosh, Wisconsin 54902 |
| PROPERTY MANAGER APPROVED BY COUNTY | ACC Management Group, Inc. 2375 State Road 44 Suite A Oshkosh, WI 54904 |
| SITE | The real property on which the Project shall be constructed, the legal description of which appears in Schedule A, which is attached hereto and incorporated herein by reference. |
| VERY-LOW-INCOME FAMILY | Families whose annual incomes do not exceed 50% of the median family income for families living in Dane County, as determined by HUD, with adjustments for smaller and larger families. |

2. PURPOSE OF LOAN AND GENERAL STATEMENT OF SPONSOR'S MANAGING MEMBER'S RESPONSIBILITIES

Within the limitations and requirements established by HUD for participation in the HOME Program, COUNTY agrees to loan HOME funds to DEVELOPER and DEVELOPER agrees to borrow said HOME funds from COUNTY. OWNER further agrees that it shall use said HOME funds for the development of five (5) units of low income rental housing that will be located in the Development as further described in Schedule A (which is attached hereto and incorporated herein by reference). DEVELOPER shall use these funds in compliance with the terms of this AGREEMENT, as stated or otherwise referenced, and in compliance with the Act and all regulations and policies promulgated thereunder.

3. AMOUNT OF LOAN

The amount of the Loan is stated on the first page of this AGREEMENT as the "Maximum Loan Amount".

4. INTEREST RATE, TERM, FEE

The Loan shall bear interest at the rate provided in Schedule B which is attached hereto and incorporated herein by reference. All payments shall be applied first to the payment of any interest accrued to the date of receipt of each payment, and the balance, if any, to the reduction of principal. The terms of the Loan and any Loan fees are as stated in Schedule B.

5. PROMISSORY NOTE

The Loan shall be evidenced by a Promissory Note (hereinafter "Note") in such form as the COUNTY shall require. Said Note shall be executed by DEVELOPER and guaranteed by those persons and/or entities identified in Schedule B (the "Guarantor(s)"). The guarantee by Guarantor(s) shall commence on the date of the Note and end on payment in full of DEVELOPER'S obligations under the AGREEMENT and Note. If COUNTY takes a security interest in the PROJECT to secure the Note, the security is identified in Schedule B.

6. PREPAYMENT PERMITTED, PERIOD OF AFFORDABILITY REMAINS IN PLACE

DEVELOPER shall have the right to prepay the Note at any time without penalty. Prepayment of the Note prior to the termination of the Affordability Period for the HOME units shall not relieve DEVELOPER from the terms of this AGREEMENT. DEVELOPER agrees that they shall continue to be bound by the terms of this AGREEMENT during the entire Affordability Period.

7. RIGHTS AND OBLIGATIONS

- A. COUNTY hereby expressly reserves all rights to consent to or waive any departure from the provisions of this AGREEMENT and to amend or consent to or waive departure from the provision of the Note, and to release or otherwise deal with any collateral security for payment of the Note.
- B. DEVELOPER agrees to repay, on time, all principal and interest and other charges on loans made by other entities who may supply financing for the PROJECT.

8. DURATION OF AGREEMENT AND PERIOD OF AFFORDABILITY

- A. The provisions of this AGREEMENT shall remain in full force and effect for the period of housing unit affordability identified in Schedule A. The period of housing unit affordability shall not be modified or waived, prior to the expiration of the Affordability Period, upon any prepayment, repayment or forgiveness of the Loan Funds provided under this AGREEMENT.
- B. If repayment of Loan Funds as required under this AGREEMENT is not accomplished by the end of the Affordability Period, the provisions of this AGREEMENT shall continue in full force and effect until all Loan Funds are repaid in full.

9. CONDITIONS OF CLOSING

- A. COUNTY'S obligation to disburse the Loan Funds as provided for in this AGREEMENT depends on satisfaction by DEVELOPER, in COUNTY'S reasonable discretion, of all of the following conditions precedent:
 - (1) All of DEVELOPER' representations and warranties contained in this AGREEMENT shall be true and correct on and as of the closing date.
 - (2) COUNTY'S counsel shall have received all documents that COUNTY reasonably deems necessary or incidental to the execution of this AGREEMENT in the form, scope and substance determined satisfactory to COUNTY'S counsel.
 - (3) All necessary approvals or consents, if any such approvals or consents are required of Governmental bodies having jurisdiction with respect to any construction herein contemplated, shall have been obtained, and failure to obtain such consents shall constitute a default hereunder.
 - (4) If either DEVELOPER is a corporation, there shall be delivered to COUNTY copies of the Articles of Incorporation and current Bylaws (as amended) of said corporation attached to a certificate, signed by the Secretary or Assistant Secretary of the Board of Directors, attesting that the Articles of Incorporation and Bylaws (as amended) are true and correct as of the date of said certification and a copy of the record of the minutes of the Board of Directors of the corporation ratifying the corporation's entry into and execution of this AGREEMENT and authorizing its officer(s) to execute any documents required to secure the Loan, including, but not necessarily limited to, a Continuing (Unlimited) Corporate Guarantee. The record of the minutes of the Board of Directors shall be certified to be true by the Secretary or Assistant Secretary of the Board.
 - (5) Execution of a Loan Guaranty by those person(s) and/or entities named as Guarantor(s) in Schedule B. Said guarantee(s) shall be dated as of the closing date, in a form acceptable to COUNTY and shall guarantee the prompt and punctual payment when due of the principal and interest due on the Note, and any other amounts that may be or become due to COUNTY under or pursuant to the terms of this AGREEMENT or the Note.
 - i. If any guarantor of the Loan to be made hereunder is a corporation, there shall be delivered to COUNTY (with respect to each such corporation, if there be more than one) copies of the Articles of Incorporation and current Bylaws (as amended) of said corporation attached to a certificate, signed by the Secretary or Assistant Secretary of the Board of Directors, attesting that the Articles of Incorporation and Bylaws (as amended) are true and correct as of the date of said certification and a copy of the record of the minutes of the Board of Directors of the corporation ratifying the corporation's position as a guarantor on the Loan and authorizing its officer(s) to execute any documents required to secure the Loan, including, but not necessarily limited to, a Continuing (Unlimited) Corporate Guarantee. The record of the minutes of the Board of Directors shall be certified to be true by the Secretary or Assistant Secretary of the Board.
 - ii. If any guarantor of the Loan to be made hereunder is a limited liability corporation (LLC), there shall be delivered to COUNTY (with respect to each such LLC, if there be more than one) a copy of the current LLC Operating Agreement, with all amendments thereto, attached to a certificate signed by the Member Manager of the LLC, attesting that the Operating Agreement is, and all amendments to said Agreement are, true and correct as of the date of said certification. There shall also be delivered to County, in a form determined acceptable to COUNTY, evidence that the member manager of the LLC has been legally authorized, as provided by the terms its Operating Agreement, to execute any documents required to secure the Loan, including, but not necessarily limited to, a Continuing (Unlimited) Corporate Guarantee.

- (6) All necessary approvals or consents required with respect to this transaction by the holder of any mortgage or other party having interest in the Project shall have been obtained, and failure to have obtained such consents shall constitute a default hereunder.
 - (7) Execution of a Mortgage, Note, and, when required, Assignment of said Mortgage and Note and the execution of a Land Use Restriction Agreement (LURA) on the site by the DEVELOPER, each in a form acceptable to the COUNTY in compliance with the terms of this AGREEMENT;
 - (8) Delivery to the COUNTY before closing of a standard ALTA commitment for title insurance on the Project in the amount of the HOME assistance which will be subject only to municipal and zoning ordinances and agreements entered thereunder, recorded easements for the distribution of utility and municipal services, recorded building and use restrictions and covenants, and taxes levied in the year of closing, all senior debt and all other matters of record in the office of the Dane County Register of Deeds as of the date of the closing;
 - (9) Payment by DEVELOPER of all closing costs and expenses including but not limited to the fee charged by the attorney closing this loan; and,
 - (10) Evidence of insurance as required by this AGREEMENT and delivery to COUNTY copies of executed risk insurance policies or certificates of insurance as described in paragraph 69.
- B. The Land Use Restriction Agreement shall be recorded against the site before any other documents creating an encumbrance thereon except any land use restriction agreements between DEVELOPER and the Wisconsin Housing and Economic Development Authority and the Mortgage and documents evidencing the first mortgage or construction loan and the Mortgage Loan from the County Housing Authority to DEVELOPER in the amount of \$1,500,000. DEVELOPER shall pay recording fees.

10. DISBURSMENT OF FUNDS

- A. COUNTY shall make disbursement of Loan funds as described in Schedule B.
- B. COUNTY, in its sole discretion, may withhold disbursements if COUNTY determines that DEVELOPER has not provided the documentation required by this AGREEMENT, or DEVELOPER is otherwise in default under the terms and conditions of this AGREEMENT.

11. APPLICATION OF LOAN FUNDS

DEVELOPER agrees that it will apply the funds received by it under this AGREEMENT as specified in Schedule A.

12. SECURITY

- A. DEVELOPER shall execute and deliver to COUNTY at closing, a Mortgage on the property as described in Schedule B to secure payment of the principal of the Note, the accrued interest thereon, and any other sums payable to COUNTY by DEVELOPER, its successors and assigns, as provided hereunder.
- B. The Mortgage shall be in a form satisfactory to COUNTY and shall provide, among other things, that in the event of default by DEVELOPER in any agreement, covenant or condition contained in this AGREEMENT, or in the Note, subject to any applicable notice and cure periods, COUNTY may, at its option, in addition to all other remedies available to it, take possession of the property given as security. COUNTY however, shall be under no obligation to exercise this right and its action in this respect shall be wholly at its option.
- C. DEVELOPER shall, on demand, submit to COUNTY annually paid tax receipts showing that current taxes have been paid.

13. REPRESENTATIONS

To induce COUNTY to enter into this AGREEMENT and provide the Loan Funds to the DEVELOPER, DEVELOPER represents and warrants:

- A. DEVELOPER has the power and authority to own its assets and properties, to carry on its activities as now conducted by it, to execute, deliver and perform this AGREEMENT, and to execute and deliver the Note, Mortgage and LURA, and to borrow under this AGREEMENT and under the Note.
- B. The execution and delivery of the AGREEMENT and performance by the DEVELOPER of its obligations under the AGREEMENT, the execution and delivery of the Note and the borrowing under the Note, the execution of the Mortgage and the LURA have been duly authorized by all requisite organizational action. Upon execution and delivery by the DEVELOPER, this AGREEMENT, the Note, the Mortgage and the LURA will constitute legal, valid, and binding obligations of the DEVELOPER enforceable in accordance with their terms.
- C. There is no action, suit, or proceeding pending or threatened before any court or government or administrative body or agency that may reasonably be expected to affect DEVELOPER in any of the following ways: (1) Result in a material adverse change in the activities, operations, assets or properties or in the condition, financial or otherwise, of DEVELOPER; or (2) Impair the ability of DEVELOPER to perform its obligations under this AGREEMENT, the Note, the Mortgage or the LURA.
- D. DEVELOPER is not in default with respect to any judgment, writ, injunction, decree, rule, or regulation of any court or any governmental or administrative body or agency.
- E. DEVELOPER has filed all tax returns that are required to be filed and has paid or made provision for the payment of all taxes which have or may become due pursuant to said returns and pursuant to any assessments received by it. No tax liability has been asserted by the Internal Revenue Service or other taxing agency, federal, state or foreign, for taxes materially in excess of those already provided for and neither does DEVELOPER know of any basis for any such deficiency assessment.
- F. The execution, delivery and performance by the DEVELOPER of this AGREEMENT, the execution and delivery of the Note, Mortgage and LURA and the borrowing of the Funds hereunder by DEVELOPER will not violate any provision of law, any order, rule or regulation of any court or governmental or regulatory body, or any provision of the organizational documents of DEVELOPER or any indenture or deed of trust, agreement or instrument to which the DEVELOPER is a party or to which DEVELOPER'S assets or properties are bound, or conflict with, result in a breach of, or constitute (with due notice of lapse of time or both) a default under, any such indenture of deed of trust, agreement or instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature, whatsoever, upon any of the assets or properties of DEVELOPER, except as otherwise permitted, required, or contemplated by this AGREEMENT.
- G. No information, exhibit, report, statement, certificate or document furnished by the DEVELOPER, or any other person or entity on DEVELOPER'S behalf, to COUNTY in connection with this AGREEMENT or its negotiation, contains any material misstatement of fact or omission of a material fact or any fact necessary to the validity of the statements contained therein.
- H. The undersigned officers and agents of the DEVELOPER are fully authorized to execute and deliver this AGREEMENT on behalf of the DEVELOPER, respectively.

14. AFFIRMATIVE COVENANTS

- A. DEVELOPER shall at all times comply with, and cause the Project to be in compliance with, all federal, state, Dane County and other municipal laws and regulations which are applicable to the Project or applicable to DEVELOPER as the recipients of HOME funds for the Project. DEVELOPER shall

independently learn which such laws and regulations are applicable to the Project, and shall not rely exclusively upon COUNTY, or the COUNTY'S officers, officials, employees or agents, to make such determinations. The specific references to particular statutes, regulations and local laws referenced in this AGREEMENT mean those that are in effect on the date hereof. Prior to implementing any amendment(s) to such statutes, regulations or local laws, the DEVELOPER shall ask for and receive from COUNTY a written determination regarding the applicability of said amendment to the Project. A copy of 24 CFR Part 92, as it exists on the date this AGREEMENT is signed, is available to DEVELOPER on the HUD website.

- B. DEVELOPER shall deliver to COUNTY within fifteen (15) business days after any written request therefore from COUNTY such information as may be reasonably necessary to determine whether the DEVELOPER is complying with the terms of this AGREEMENT and whether an Event of Default has occurred.
- C. DEVELOPER shall punctually pay or cause to be paid the principal and interest payments required by the terms of this AGREEMENT and Note as such payments are due in accordance with the terms thereof.
- D. DEVELOPER shall, upon demand, promptly pay and discharge all taxes, assessments or other governmental charges which may lawfully be levied or assessed on DEVELOPER'S income or profits or on any property, real, personal or mixed, belonging to DEVELOPER or upon any part thereof. DEVELOPER shall also promptly pay all lawful claims for labor or material and supplies, which, if unpaid, might become a lien or charge upon any such property. Notwithstanding the foregoing, DEVELOPER shall not be required to pay any such taxes, assessments, charges, levies or claims so long as the validity thereof shall be actively contested in good faith by proper proceedings, provided that any such tax, assessment, charge, levy or claim shall be placed in escrow during such proceedings and shall be paid forthwith upon a final adjudication and order to pay from a court or other legally constituted body of competent jurisdiction.
- E. DEVELOPER shall, upon demand, pay or cause to be paid the principal and interest on all indebtedness to other lenders heretofore or hereafter incurred or assumed by it when and as the same shall become due and payable unless such indebtedness be renewed or extended, and will observe, perform and discharge all of the covenants, conditions and obligations which are imposed on it by any and all agreements securing or evidencing an encumbrance upon the collateral so as to prevent an occurrence of any act or omission which under the provisions thereof may be declared to be a default thereunder which could result in a lien being placed upon the site where the Project is located.
- F. DEVELOPER shall at all times maintain the site, the Development and the units that comprise the Development (the Project) in such condition and repair that COUNTY'S security interest will be adequately protected.
- G. DEVELOPER shall give COUNTY prior notice, in writing, of any public hearing or meeting before any administrative or other public agency that may, in any manner, affect COUNTY'S security interest in the Project.
- H. DEVELOPER will complete the PROJECT on or before the Project completion date listed in Schedule A.
- I. DEVELOPER will execute and deliver to COUNTY any and all further, or other, instruments, and perform such acts, as COUNTY or its counsel may reasonably deem necessary or desirable to confirm and secure to COUNTY all rights and remedies conferred upon COUNTY by the terms of this AGREEMENT, the Note, Mortgage and LURA.

15. NEGATIVE COVENANTS

Until payment in full of the Note and performance of all its obligations under this AGREEMENT, without the prior written consent of the COUNTY:

- A. DEVELOPER shall neither create nor allow to exist any mortgage, pledge, lien, charge, or encumbrance, including liens arising from judgments, on the Property that is the subject of COUNTY'S security (mortgage) for this Loan except as are specifically set forth in the Mortgage as exceptions to DEVELOPER'S title.

- B. DEVELOPER will neither sell nor convey nor suffer to be conveyed any of its property in a manner that is not in the ordinary course of its business during the terms of its obligation to COUNTY.
- C. During the term of the AGREEMENT, DEVELOPER are prohibited from consolidating or merging with or into any other entity without the prior written consent of COUNTY.
- D. During the term of this AGREEMENT, DEVELOPER shall not discontinue the operation of the PROJECT within Dane County, without the prior written consent of the COUNTY, and without providing 90 days prior written notice to the COUNTY.

16. ADDITIONAL COVENANTS

- A. Expenses. DEVELOPER agrees to pay all costs and taxes that might be imposed or determined to be payable in connection with the execution, issuance or delivery of the Note, or in connection with any modification, amendment, or alteration of the terms and provisions thereof, and to save COUNTY and any other holder of the Note harmless against any and all liability with respect thereto, all of which agreements shall survive payment of the Note.
- B. Expenses of Collection or Enforcements. If DEVELOPER shall at any time default in making any payment of principal or interest on the Note, DEVELOPER agrees that it will, to the full extent permitted by law, pay to COUNTY, in addition to any other amounts that may be due from it to COUNTY, an amount equal to the costs and expenses of collection or enforcement incurred by COUNTY in such collection.
- C. Expenses of Correction by COUNTY of Default. In the event of any default by any DEVELOPER in full performance or observance of any covenant or agreement contained herein or in the Note, COUNTY may, upon 30 days written notice, and at COUNTY'S discretion (but without any obligation of COUNTY to do so) take such steps as may be necessary or appropriate to correct or remedy such default in whole or in part, and all costs, fees, and expenses incurred by COUNTY in taking such steps (including reasonable attorney fees incurred by COUNTY and including any other sums paid or payable by COUNTY to third parties) shall forthwith upon written demand by COUNTY be due and payable by DEVELOPER to COUNTY, with interest thereon (payable on the first day of each calendar month) from the time of incurrence thereof by COUNTY at the rate of 10% per annum until paid. In the event COUNTY takes any action provided for in the preceding sentence, the commencement or taking of such action shall not be deemed to be a waiver by COUNTY of the default of either DEVELOPER or a waiver of any other available remedy of COUNTY by reason of such default.
- D. Expenses of Amendments, Waiver, Consents. In the event that DEVELOPER proposes to take or omit any act or action prohibited or required by any provision of this AGREEMENT or the Note, and DEVELOPER requests COUNTY to consent thereto or waive compliance with any such provision, or in the event DEVELOPER requests COUNTY to consent to any modification or amendment of this AGREEMENT or the Note then, in each such case, DEVELOPER agree to reimburse or pay to COUNTY any reasonable expenses incurred by COUNTY in connection with such consent or waiver, or such modification or amendment, as the case may be.

17. EVENTS OF DEFAULT

The principal indebtedness evidenced by the Note or the unpaid balance thereof outstanding at the time of the event of default described below, shall be due and payable at the election of the COUNTY if any one or more of the following events (herein called "Events of Default") occur for any reason whatsoever. The determination that an Event of Default has occurred shall be solely within the reasonable discretion of COUNTY.

- A. If DEVELOPER fails to begin construction on the PROJECT within one (1) year of the last party's signature on this AGREEMENT, PROJECT shall be deemed terminated and DEVELOPER will return to COUNTY all HOME funds distributed to DEVELOPER pursuant to this AGREEMENT.
- B. If DEVELOPER fails to complete construction of the PROJECT within 36-months from the date of the last party's signature on this Agreement, DEVELOPER agree that the PROJECT shall be deemed terminated and DEVELOPER will return to COUNTY all HOME funds distributed pursuant to this AGREEMENT.
- C. Failure to pay any principal of or interest on the Note when due and payable, and such default continues for a period of 15 days; or
- D. Intentionally Deleted; or
- E. Any representation or warranty made by any of the DEVELOPER herein or any statement or representations made in any certificate, statement, or opinion delivered pursuant to this AGREEMENT proves to be incorrect in any material respect as of the date when made; or
- F. Failure by the DEVELOPER to meet any obligations for the payment of borrowed money for this PROJECT (other than its obligations hereunder or under the Note) or any such obligation that shall become or be declared, pursuant to its terms, due and payable prior to the express maturity thereof by reason of default or other violation by DEVELOPER of the terms thereof; or
- G. Failure of DEVELOPER to perform or observe any of the other covenants or agreements herein contained not covered by A. through F. above, and such default shall have continued for a period of 30 days after notice thereof to the DEVELOPER by COUNTY; or
- H. Any assignment for the benefit of the DEVELOPER'S creditors, or commission of any other act amounting to a business failure; or
- I. The filing, by or against the DEVELOPER, of a petition under any chapter of the U.S. Bankruptcy Code, or for the appointment of a receiver for DEVELOPER and such petition is not dismissed in 90 days in the case of an involuntary filing; or
- J. Any act that indicates DEVELOPER'S consent to, approval of, or acquiescence in any such proceedings or in the appointment of any receiver or of any trustee for said DEVELOPER with respect to a substantial part of its property, either tangible or intangible.
- K. Any final judgment for the payment of money that is not fully covered by liability insurance and is in excess of \$25,000.00 rendered against DEVELOPER and not discharged within 30 days.
- L. A change in ownership or control of any of the DEVELOPER or of its assets without the prior written consent of the COUNTY except, neither the withdrawal, removal, replacement, and/or addition of a managing member or manager of the DEVELOPER pursuant to the terms of the Operating Agreement, nor the withdrawal, replacement, and/or addition of any of its investor members shall constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan, provided that any required substitute managing member or manager is reasonably acceptable to COUNTY and is selected with reasonable promptness. In addition, the COUNTY agrees that the interests of the DEVELOPER'S investor members shall be transferable without the consent of the COUNTY to (a) any affiliates thereof, and (b) to any party from and after payment in full of such investor member's capital contributions.

18. COUNTY'S REMEDIES IN EVENT OF DEFAULT

Upon the occurrence of an Event of Default, COUNTY may exercise any or all of the following remedies:

- A. After thirty (30) days written notice to the DEVELOPER and Developer's investor member of any non-monetary Event of Default described above, during which time the Event of Default may be cured,

COUNTY may terminate the AGREEMENT effective immediately and declare the entire outstanding balance of the Note together with interest and all other charges, immediately due and payable, whether or not the indebtedness evidenced by the Note shall be otherwise due and payable.

- B. COUNTY may enforce its rights by any appropriate proceedings, judicial or otherwise.
- C. No delay on the part of either party in exercising any right, power, or privilege shall operate as a waiver.
- D. With respect to an Event of a Default which does not require the payment of money to cure, and with the exception of the Event of Default described in 17.A., above, DEVELOPER shall be deemed to have cured an Event of Default if or before the expiration of thirty (30) days after written notice of such Event of Default from COUNTY, steps as are reasonably necessary to cure the Event of Default have been taken within a period of time that, under all of the facts and circumstances then existing, is reasonable, as determined by COUNTY in its sole discretion, and the DEVELOPER is diligently prosecuting such steps to completion such that the Event of Default will be cured within a reasonable time period. The determination that the steps to cure the Event of Default are both reasonable and timely shall be solely within the discretion of COUNTY.

Any cure of any default or Event of Default made or tendered by any investor member of the Borrower shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

19. WAIVER OF NOTICE

DEVELOPER hereby expressly waive any requirement for presentation, demand, protest, notice of protest or other notice of dishonor of any kind, other than the notice specifically provided for in this AGREEMENT.

20. SURVIVAL OF REPRESENTATION, WARRANTIES, AND OBLIGATIONS

All representations and warranties contained herein shall survive the execution and delivery of this AGREEMENT, the Note, the Mortgage and the LURA and any other security instruments required as part of this AGREEMENT, and any investigation at any time made by the COUNTY or on its behalf. All obligations of DEVELOPER under this AGREEMENT, and under the Note, which have not been fully performed, paid and satisfied at the time of closing of the Loan, shall survive the closing.

21. SEVERABILITY

In the event that any provision of this AGREEMENT or any other instrument executed at closing or the application thereof to any person or circumstances shall be declared unenforceable by a court of competent jurisdiction, the remainder of the AGREEMENT shall nevertheless remain in full force and effect, and to this end, the provisions of all covenants, conditions, and agreements described herein are deemed separate.

22. CONSTRUCTION AND AMENDMENT

This AGREEMENT constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. This AGREEMENT may not be changed, amended or terminated orally but only by AGREEMENT in writing and signed by the party against whom enforcement of any change, amendment or termination is sought.

23. PAYMENT

The DEVELOPER will pay to COUNTY at its address specified in Schedule A, or at such other address as it may designate in writing, all amounts payable with respect to the principal of, and interest on, any Note held by the COUNTY.

24. SUCCESSORS AND ASSIGNS

All covenants, agreements, representations and warranties made herein or in certificates delivered in connection herewith shall, whether or so expressed or not, bind and inure to the benefit of the successors and assigns of the DEVELOPER and COUNTY.

25. COUNTERPARTS

This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

26. NO WAIVER; RESULTS CUMULATIVE

No exercise, partial exercise, failure or delay on the part of COUNTY in exercising any power or right hereunder, or under the Note shall operate as a waiver of the power or right, except as specifically provided herein. No remedy conferred herein or in the Note is intended to be exclusive to any other remedy, and each and every other remedy given hereunder or now hereafter existing at law or in equity or by statute or otherwise, may be sought by the enforcing party.

27. EXECUTION BY ADDITIONAL PARTIES AND GUARANTEE

When any party other than those named at the outset of this AGREEMENT join in the execution hereof, they have done so for the purpose of consenting to all of the terms and conditions hereof and agree by such execution to be bound hereby. Any party who has signed this AGREEMENT as Guarantor shall be deemed to have guaranteed performance by DEVELOPER of all of DEVELOPER' obligations hereunder and under the Note, and all such persons or entities who have signed as Guarantor shall be deemed to have made such guarantee unconditionally, and they shall be jointly and severally liable for the performance by DEVELOPER of all of such obligations.

28. RELATIONSHIP OF PARTIES

DEVELOPER acknowledge that nothing contained in this AGREEMENT, or any contract between DEVELOPER and COUNTY, nor any act by COUNTY or any of the parties shall be deemed or construed by any of the parties, or by third persons, to create any relationship of third-party beneficiary, principal or agent, limited or general partnership, or joint venture, or of any association or relationship involving COUNTY.

29. GOVERNING LAW AND VENUE

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties regarding the terms of this AGREEMENT, the terms of the accompanying Mortgage(s), Promissory Note(s), and Land Use Restriction Agreement(s), the resolution of the disagreement shall be governed by and in accordance with the laws of the State of Wisconsin. Venue for any legal proceedings shall be in the Dane County Circuit Court.

30. LIMITATION OF AGREEMENT

This AGREEMENT is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this AGREEMENT shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees or subcontractors of either of the parties. Except, where DEVELOPER intends to meet its obligations under this or any part of this AGREEMENT through a subcontract with another entity, DEVELOPER shall first obtain the written permission of COUNTY; and further, DEVELOPER shall ensure that it requires of its subcontractor the same obligations incurred by DEVELOPER under this AGREEMENT.

31. COUNTY LOGO AND PUBLICITY

DEVELOPER agrees to display the COUNTY CDBG/HOME logo in its facility and incorporate the logo in all DEVELOPER publications and stationery that pertain to the Project. DEVELOPER shall acknowledge COUNTY'S contribution to the funding of the PROJECT on any signs or other displays, during construction and after, that lists the other entities which contributed funds toward the construction of the PROJECT.

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ARTICLE II: AFFORDABILITY REQUIREMENTS, PROPERTY STANDARDS, AFFIRMATIVE MARKETING, FEES, INSPECTIONS AND MONITORING

32. PROJECT REQUIREMENTS

DEVELOPER agree to comply with the requirements of 24 CFR Part 92 Subpart F - Project Requirements, as applicable. These federal requirements include, but are not limited to: maximum per-unit subsidy amount and subsidy layering, property standards, qualification as affordable housing, tenant and participant protections, faith-based activities and, converting rental units to homeownership units for existing tenants.

33. QUALIFICATION AS AFFORDABLE HOUSING

Housing units assisted under this AGREEMENT shall meet the provisions of 24 CFR § 92.252: "Qualifications as Affordable Housing: Rental Housing." DEVELOPER agrees that they are solely responsible for ensuring that housing assisted with HOME funds meets the affordable housing requirements under 24 CFR § 92.252. The period of affordability is not subject to the term of this AGREEMENT, Note or Mortgage.

34. MARKETING PLAN FOR UNOCCUPIED UNITS

If all of the HOME-assisted units are not occupied by eligible tenants within six-months of PROJECT completion, DEVELOPER shall provide COUNTY, within 15-days of COUNTY'S written request thereof, information describing DEVELOPER' marketing of the units to eligible prospective tenants and, if requested by COUNTY, a marketing plan to locate and engage eligible prospective tenants.

35. MECHANISM FOR SECURING AFFORDABILITY

DEVELOPER will execute a Land Use Restriction Agreement as required by 24 CFR Part 92 to ensure the period of affordability.

36. RENT LIMITATION

- A. The maximum rent for a HOME assisted unit shall be the lesser of the fair market rent for comparable units in the area as established by HUD or a rent that does not exceed thirty percent (30%) of the adjusted income of a family whose annual income equals sixty-five percent (65%) of the median income for families living in Dane County, as determined by HUD, with adjustments for the number of bedrooms in the unit.
- B. In rental projects with five (5) or more HOME assisted units, twenty percent (20%) of the Home units shall be occupied by very low income families and meet one of the rent requirements listed in 24 CFR § 92.252(b).
- C. For rental projects that require the tenant to pay utilities and services, the rents shall not exceed the maximum rent minus the monthly allowance for utilities and services as determined by COUNTY.

37. INITIAL RENTS AND UTILITY ALLOWANCES

- A. At the time of initial lease-up, COUNTY will provide DEVELOPER with the maximum monthly allowances for utilities and services (excluding telephone).
- B. DEVELOPER will submit to the COUNTY the rents proposed for the HOME units prior to leasing.
- C. The HOME units may not be leased until the COUNTY has approved the rents to be charged.

38. RENT INCREASES AND UTILITY ALLOWANCE ADJUSTMENTS

- A. COUNTY will provide DEVELOPER with information on updated HOME rent limits as they are received from HUD.
- B. COUNTY will annually review the rents charged for PROJECT units and the maximum monthly allowance for utilities and services to ensure the rents and utility and service charges comply with HOME requirements. COUNTY will adjust rents and the maximum utility allowance and service charges in accordance with § 92.252.
- C. Any rent increase for HOME-assisted units must first be approved by COUNTY and shall be subject to the provisions of outstanding leases. DEVELOPER will provide tenants of HOME-assisted units not less than 30 days prior written notice before implementing any rent increase.

39. TENANT INCOME REQUIREMENTS AND VERIFICATION

HOME assisted units shall be occupied only by eligible low-income and very low- income families. Household size, income and assets will be determined, verified and documented by DEVELOPER in accordance with 24 CFR § 92.203.

- A. Not less than 90 percent of the HOME assisted units shall be occupied by families whose annual incomes do not exceed 60% AMI, as determined by HUD, as required by 24 CFR § 92.216.
- B. DEVELOPER, or DEVELOPER'S representative as approved by COUNTY, will perform income verifications using as a guide the January 2005 edition of the Technical Guide for Determining Income and Allowances and the CPD Income Eligibility Calculator for the HOME Program and certify that households meet income eligibility requirements.
- C. Initial income verification shall include the examination of source documents evidencing income (e.g., wage statements, pay stubs, interest statements, unemployment compensation statements) for all members of the household and documentation shall cover the most recent two-month period and be in a form consistent with HOME requirements as stated in the HUD Technical Guide for Determining Income and Allowances Under the HOME Program.
- D. DEVELOPER, or DEVELOPER'S representative as approved by COUNTY, will use third-party verifications to obtain income and asset information. In situations where it is not possible to obtain a third-party verification or there is a fee to obtain such verification, DEVELOPER may conduct a review of documents. If a review of documents is conducted, DEVELOPER must review the most recent two-months of documentation.
- E. Annually, during the period of affordability, DEVELOPER shall re-examine each household

member's annual income to determine continuing HOME eligibility in accordance with 24 CFR Part 5, 24 CFR §92.203 or 24 CFR § 92.252.

40. LEASE REQUIREMENTS

- A. DEVELOPER will assure that the tenant of each HOME assisted unit executes a written lease for the unit and each lease shall contain the tenant protections found in 24 CFR § 92.253(a).
- B. The lease term shall be for not less than one year, unless the tenant agrees, in writing, to a shorter lease term.
- C. The lease shall not contain any of the provisions prohibited under 24 CFR § 92.253(b).

41. TERMINATION OF TENANCY

- A. DEVELOPER shall assure that a tenant's lease may not be terminated or non-renewed except for serious or repeated violations of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; or, for other good cause.
- B. DEVELOPER shall assure that if a tenant's lease is terminated or not renewed that the tenant is served with written notice of the termination or non-renewal specifying the grounds for the action and that such notice is served upon the tenant at least 30 days before the termination of tenancy.

42. TENANT SELECTION

DEVELOPER shall adopt written tenant selection policies and criteria that are consistent with 24 CFR § 92.253(d) and State and local tenant-landlord laws. DEVELOPER shall provide COUNTY with a copy of its tenant selection policies and criteria.

43. TENANT PARTICIPATION PLAN

DEVELOPER shall establish a fair lease and grievance procedure approved by COUNTY prior to the initial lease of the Project units and DEVELOPER shall adhere to the procedure during the affordability period. DEVELOPER shall also provide COUNTY with its plan for, and follow a program of, tenant participation in management decisions.

44. PROPERTY STANDARDS

HOME assisted housing must be decent, safe and sanitary through-out the affordability period.

- a. DEVELOPER shall ensure that at PROJECT completion, the HOME-assisted units meet or exceed, and during the Affordability Period the HOME assisted units continue to meet or exceed, the following housing standards:
- b. All applicable building codes and regulations, rehabilitation standards where applicable, development controls, and zoning ordinances. In the absence of an applicable state or local code provisions, the HOME-assisted project shall meet the International Code Council's International Residential Code or International Building Code, whichever is applicable to the type of housing

developed by the DEVELOPER pursuant to this AGREEMENT.

- (1.) The federal Housing Quality Standards established at 24 CFR § 92.251 and 24 CFR § 982.401.
 - (2.) The accessibility requirements at 24 CFR Part 8 which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794). Covered multi-family dwellings, as defined in 24 CFR § 100.201, must also meet the design and construction requirements of 24 CFR § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601-3619).
 - (3.) The federal National Standards for Physical Inspection of Real Estate (NSPIRE) established through amendments to 24 CFR parts 92, 93, 574, 576, and 578 to conform their various inspection requirements to NSPIRE also established an effective date for these amendments of October 1, 2023 per FR-6086-N-07. Per NOTICE PIH 2023-28 NSPIRE implementation has a compliance date of October 1, 2024.
 - (4.) NSPIRE replaces HQS guidance for all inspections conducted on and after the NSPIRE implementation compliance date. Prior to the implementation compliance date of NSPIRE, inspections are to be conducted in accordance with HQS, as defined in 24 CFR 982.401 unless otherwise directed by the COUNTY. All inspections conducted on or after the compliance date of October 1, 2024 are to be conducted in accordance with NSPIRE.
- c. The units constructed under this AGREEMENT shall meet the current edition of the Model Energy Code published by the Council of American Building Officials.
 - d. The units constructed under this AGREEMENT shall conform to the Rental Unit Energy Efficiency Standards established by the Wisconsin Department of Industry, Labor, and Human Relations.
 - e. The units constructed under this AGREEMENT shall comply with all environmental laws and regulations governing lead based paint, asbestos, materials containing urea formaldehyde, or any other environmentally controlled substance.

45. AFFIRMATIVE MARKETING

- A. DEVELOPER shall establish an affirmative marketing program in conformance with the requirements of 24 CFR § 92.351, take affirmative steps to distribute information regarding the PROJECT and take other steps to attract persons from all racial, ethnic, and gender groups in the PROJECT'S housing market area. These affirmative steps shall include:
 - 1) Advertising available units in commercial media, using community contacts, including the Equal Housing Opportunity logo or slogan in all advertising, and by displaying the fair housing poster.
 - 2) Informing and soliciting applications from persons unlikely to seek units in the PROJECT without special outreach by using community organizations, churches, employment centers, fair housing groups, or housing counseling agencies.
 - 3) Keeping records on the race, color, national origin, religion, handicap, family status, ethnicity, and gender of household head of persons who have applied for or leased units in the PROJECT.
 - 4) Keeping records to document the actions taken to fulfill the affirmative marketing requirements described in 24 CFR § 92.351 and assessing the results of its affirmative marketing strategy.
- B. DEVELOPER shall complete and submit a Form HUD-935.2A: Affirmative Marketing Report, or other equivalent form as supplied by the COUNTY, at initial rent-up, on each subsequent January 1 for the duration of this AGREEMENT, and as otherwise directed by the COUNTY.

46. FEES

In accordance with 24 CFR § 92.214, DEVELOPER is prohibited from charging any fees that are not reasonable and customarily charged by owners of rental housing.

47. ON-SITE INSPECTIONS AND MONITORING

- A. To monitor the continued affordability and condition of units assisted under this AGREEMENT, COUNTY, or its designee, shall conduct, annually or as frequently as COUNTY otherwise determines necessary, an inspection and review of tenancy and rental records for units assisted under this AGREEMENT. The DEVELOPER shall submit whatever reports and take whatever steps the COUNTY directs to assist this monitoring.
- B. COUNTY will perform on-site inspections of HOME-assisted rental housing to determine compliance with property standards of 24 CFR § 92.251 and to verify the information submitted by the DEVELOPER in accordance with the requirements of 24 CFR § 92.252 and 24 CFR § 92.253, as applicable.
- C. DEVELOPER shall annually certify to COUNTY that each building and all HOME- assisted units in the project are suitable for occupancy, taking into account State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established to meet the requirements of 24 CFR § 92.251.

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ARTICLE III: NON-DISCRIMINATION, AFFIRMATIVE ACTION AND EQUAL OPPORTUNITY

48. NON-DISCRIMINATION AND EQUAL OPPORTUNITY-STATE AND LOCAL REQUIREMENTS

- A. During the term of this AGREEMENT, DEVELOPER agrees that it will not discriminate on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military force of the United States, or political beliefs against any persons, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, selection for training including apprenticeship, rates of pay, and any other form of compensation of level of service(s).
- B. DEVELOPER shall post in conspicuous places, available to all employees, service recipients, and applicants for employment and services, notices setting forth the provisions of paragraph A above. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.
- C. DEVELOPER shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and which provide that no person shall be excluded from participation, denied the benefits, or subjected to discrimination on the basis of race, color, or national origin under any program or activity receiving federal financial assistance.
- D. DEVELOPER shall comply with section 109 of the Housing and Community Development Act of 1974 which provides that no person shall, on the grounds of race, color, national origin sex, age or handicap be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Act.
- E. DEVELOPER shall incorporate the foregoing requirements in all bids and subcontracts.
- F. DEVELOPER authorize COUNTY'S CDBG/HOME Office and HUD to conduct on-site reviews, examine personnel and employment records and conduct any other procedures or practices to assure compliance with these provisions.

49. NON-DISCRIMINATION AND EQUAL OPPORTUNITY - FEDERAL REQUIREMENTS

The following federal laws apply as noted in the respective program regulations:

- A. The Fair Housing Act (42 U.S.C. § 3601-19) and implementing regulations at 24 CFR Part 100 et seq.; Executive Order 11063, as amended by Executive Order 12892; (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR Part 107;
- B. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR Part 1 and Section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. § 5301 et seq.);
- C. The Age Discrimination Act of 1975 (42 U.S.C. § 6101-6107) and implementing regulations at 24 CFR Part 146;

- D. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) and Title II of the Americans with Disabilities Act, (42 U.S.C. § 12101 et seq.) and implementing regulations at 24 CFR Part 8;
- E. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. § 1701u) and implementing regulations at 24 CFR Part 75;
- F. Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR Chapter 60; and
- G. Architectural Barriers Act of 1968 (42 U.S.C. § 4151 et seq.)

50. AFFIRMATIVE ACTION

If DEVELOPER has twenty (20) or more employees and receives \$20,000 in annual contracts with COUNTY, then DEVELOPER shall

- A. Take affirmative action to ensure equal employment opportunity and shall establish a goal for job categories within the DEVELOPER'S workplaces.
- B. File an Affirmative Action Plan with the Dane County Contract Compliance Officer in accord with Chapter 19 of the Dane County Code of Ordinances. Such plan must be filed within fifteen (15) days of the effective date of this AGREEMENT. DEVELOPER may submit a copy of a current affirmative action plan on file and approved by a federal, state, or another local government unit. If any DEVELOPER fails to comply with the provision of this section, COUNTY may take any of the following actions: terminate this AGREEMENT, suspend this AGREEMENT or commence debarment proceedings against the DEVELOPER in accordance with §§ 19.63-19.64 of the Dane County Ordinances.
- C. DEVELOPER shall also, during the term of this AGREEMENT, provide copies of all announcements of employment opportunities to COUNTY's Contract Compliance office and shall report annually the number of persons, by race, ethnicity, gender, and disability status, who apply for employment and, similarly classified, the number hired and the number rejected.
- D. DEVELOPER shall furnish all information and reports required by COUNTY's Contract Compliance Officer as the same relate to affirmative action and nondiscrimination, which may include any books, records, or accounts deemed appropriate to determine compliance with Chapter 19, Dane County Ordinances, and the provisions of this AGREEMENT.

51. AFFIRMATIVELY FURTHERING FAIR HOUSING

DEVELOPER shall comply with Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended, including the Fair Housing Amendments Act of 1988 (P.L. 100-430), which prohibits discrimination in housing on the basis of race, color, religion, sex, handicap, familial status, or national origin and requires that HUD programs be administered in a manner that affirmatively promotes fair housing. DEVELOPER shall comply with Executive Order 11063, as amended by Executive Order 12892 and Wis. Stat. § 106.50 and any subsequent relevant laws and amendments.

52. AMERICANS WITH DISABILITIES ACT COMPLIANCE

- A. DEVELOPER shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973 the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968, as amended, which provide that no otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to

discrimination under any program or activity receiving federal funds and that buildings or facilities that are altered, constructed or designed with federal funds comply with federal standards for accessibility. DEVELOPER shall also comply with the requirements of Wisconsin Statutes. §§ 111.321 and 111.34, and Chapter 19 of the Dane County Code of Ordinances. DEVELOPER shall post in conspicuous places, available to employees, service recipients, and applicants for employment and services, notices setting forth the provisions of this paragraph.

- B. DEVELOPER shall give priority to those methods that offer programs and activities to disabled persons in the most integrated setting and make programs and facilities accessible, as appropriate, through outstations, authorized representatives, adjusted work hours, ramps, doorways, elevators, or ground floor rooms. Where service or program delivery is housed in an inaccessible location, and accessible alterations are not readily achievable, DEVELOPER shall offer "programmatic accessibility" to recipients (real or potential) of said services and programs (e.g. change time/location of service).
- C. DEVELOPER shall employ staff with special translation and sign language skills appropriate to the needs of the client population, or will purchase the services of qualified adult interpreters who are available within a reasonable time to communicate with hearing impaired clients. DEVELOPER shall refrain from the use of family members or friends as language interpreters unless specifically requested by the consumer and after a qualified agency interpreter has been offered. DEVELOPER shall train staff in human relations techniques and sensitivity to persons with disabilities. DEVELOPER shall provide, free of charge, all documents necessary to its clients' meaningful participation in DEVELOPER' programs and services in alternative formats and languages appropriate to the needs of the client population, including, but not limited to, Braille, large print and verbally transcribed or translated taped information. DEVELOPER shall train its staff on the content of these policies and will invite its applicants and clients to identify themselves as persons needing additional assistance or accommodations in order to apply for or participate in DEVELOPER' programs and services.

53. BILINGUAL SERVICES FOR THOSE WITH LIMITED ENGLISH PROFICIENCY

DEVELOPER shall maintain comprehensive policies to address the needs of employees and clients with limited English proficiency and employ staff with bilingual or special foreign language translation skills appropriate to the needs of the DEVELOPER' client population or will purchase the services of qualified adult interpreters who are available within a reasonable time to communicate with clients who have limited English proficiency. DEVELOPER shall refrain from the use of family members or friends as language interpreters unless specifically requested by the consumer and after a qualified agency interpreter has been offered. DEVELOPER shall provide, free of charge, all documents necessary to its clients' meaningful participation in DEVELOPER' programs and services in alternative languages appropriate to the needs of the client population. DEVELOPER shall train its staff on the content of these policies and will invite its applicants and clients to identify themselves as persons needing additional assistance or accommodations in order to apply for or participate in DEVELOPER' programs and services.

54. CIVIL RIGHTS COMPLIANCE

- A. DEVELOPER shall comply with the Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990.
- B. DEVELOPER shall comply with the applicable COUNTY civil rights compliance policies and procedures and with civil rights monitoring reviews performed by COUNTY, including the

examination of DEVELOPER' records and relevant files. DEVELOPER shall furnish all information and reports required by the COUNTY and HUD as they relate to affirmative action and non-discrimination. DEVELOPER will cooperate with the COUNTY in developing, implementing, and monitoring corrective action plan that result from any reviews.

- C. DEVELOPER shall post the Equal Opportunity Policy, the name of the DEVELOPER' designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY'S policies and procedures and made available in languages and formats understandable to applicants, clients, and employees. DEVELOPER shall supply to the Dane County Contract Compliance Office upon request, a summary document of all client complaints related to perceived discrimination in service delivery. These documents shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- C. DEVELOPER shall provide copies of all announcements of new employment opportunities to the Dane County Contract Compliance Officer when such announcements are issued.
- D. If DEVELOPER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the DEVELOPER shall submit to the COUNTY a current Civil Rights Compliance Plan (CRC) and a copy of its discrimination complaint form. The CRC/AA Plan must be submitted prior to the effective date of this AGREEMENT and failure to do so by said date shall constitute grounds for immediate termination of this AGREEMENT by COUNTY. The plan may cover a two-year period.
- E. If an approved CRC plan has been received during the previous calendar year, a plan update is acceptable. If DEVELOPER submits a CRC/AA Plan to the State of Wisconsin that covers the services purchased by COUNTY, a verification of acceptance by the State of DEVELOPER'S CRC plan is sufficient. If DEVELOPER is a government entity having its own compliance plan, DEVELOPER'S plan shall govern DEVELOPER'S activities.
- F. If DEVELOPER has less than 20 employees, but said DEVELOPER receives more than \$20,000 from the COUNTY in annual contracts, it may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts.

55. VIOLENCE AGAINST WOMEN ACT

- A. DEVELOPER shall comply with the Violence Against Women Act ("VAWA"), as amended (42 U.S.C. § 13925 and 42 U.S.C. 14043e, et seq.), including, but not limited to, as required by 24 CFR § 92.359.
- B. DEVELOPER shall provide to each of its applicants and to each of its tenants the notice of occupancy rights and the certification form as described in this section:
 - (1) A "Notice of Occupancy Rights under the Violence Against Women Act," as prescribed in accordance with directions provided by HUD, that explains the VAWA protections under 24 CFR subpart L, including the right to confidentiality, and any limitations on those protections; and
 - (2) A certification form, in a form approved by HUD, to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking, and that:
 - i. States that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;
 - ii. States that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under 24 CFR subpart L meets the applicable definition

- for such incident under 24 CFR § 5.2003; and
- iii. Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.
- C. DEVELOPER shall provide the notice and certification form required by paragraph 8 of this section to an applicant or tenant no later than at each of the following times:
- (1) At the time the applicant is admitted to a HOME-Assisted unit, or denied admission to a HOME- assisted unit, based on the DEVELOPER'S tenant selection policies and criteria; and
 - (2) At the time of any notification of eviction from a HOME-assisted unit.
- D. DEVELOPER shall include, in a form provided by the COUNTY, a VAWA lease term/addendum, as required by 24 CFR § 92.359(e).

56. INTENTIONALLY OMITTED

57. EQUAL OPPORTUNITY NOTICE

In all solicitations for employment placed by or on DEVELOPER'S behalf during the term of this AGREEMENT, DEVELOPER shall include a statement identifying DEVELOPER as an "Equal Opportunity Employer."

58. MINORITY, WOMEN, LOCAL AND SMALL BUSINESS ENTERPRISES

- A. DEVELOPER shall comply with Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), Executive Order 12138 (concerning Women's Business Enterprise), and 24 CFR § 85.36.
- B. DEVELOPER shall take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction, and services.

59. PARTICIPATION IN HUD PROGRAMS BY FAITH-BASED ORGANIZATIONS

DEVELOPER shall comply with the requirements of 24 CFR § 92.257 and Executive Order 13279, as amended by Executive Order 13559, which govern the participation in HUD-funded programs by faith-based organizations.

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ARTICLE IV: MISCELLANEOUS TERMS AND CONDITIONS

60. CONTRACTS UNDER THIS AGREEMENT

- A. DEVELOPER shall ensure that the terms of this AGREEMENT are complied with in all contracts to which it is a party and pursuant to which HOME funds are disbursed to other persons or entities.
- B. From the effective date of this AGREEMENT forward, DEVELOPER shall request from COUNTY documents that COUNTY requires be included in bid solicitations and specifications. At COUNTY'S discretion, DEVELOPER shall submit to COUNTY, for review prior to distribution, copies of said solicitations and specifications.
- C. DEVELOPER shall not employ, award contracts to, or otherwise fund or engage the services of any individual, corporation or other entity during any period said individual, corporation or other entity is the subject of debarment, suspension, or ineligibility status under the provisions of 24 CFR Part 24.
- D. DEVELOPER shall comply with and include in every bid solicitation and contract a requirement that each subcontractor comply with the following federal laws, as applicable to this contract: the Copeland "Anti-Kickback" Act (18 USC§ 874); the Contract Work Hours and Safety Standards Act (40 USC §§ 327-330); and the Equal Opportunity Provisions of Executive Orders 11246, and 11375; all federal regulations promulgated in furtherance thereof and any amendments thereto.
- E. If this AGREEMENT calls for the construction or rehabilitation with HOME funds of 12 or more units, DEVELOPER shall include in every bid solicitation and contract, documents supplied by COUNTY that address the federal requirements of the Davis-Bacon Act (40 USC § 276a) and the Act's implementing regulations.
- F. If there is a violation of any Act cited above, COUNTY may withhold from payment to DEVELOPER an amount sufficient to pay underpaid employees the difference between the wages required to be paid, and the wages actually paid. If any contractor refuses to pay out underpayments as required, the underpayments shall be disbursed by COUNTY to the employee(s). DEVELOPER shall assist COUNTY as COUNTY directs in meeting the requirements of this section, including the collection of information, the withholding of funds from contractors, the disbursement of funds to underpaid workers, or as COUNTY otherwise directs.

61. FEDERAL PROHIBITION AGAINST LOBBYING

By signing this AGREEMENT, DEVELOPER certifies for itself, that to the best of its knowledge and belief:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of itself, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative AGREEMENT;
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, DEVELOPER shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- C. DEVELOPER shall ensure that the language of paragraphs A. and B. of this anti-lobbying certification is included in all of the contracts it enters into to complete the work required by this AGREEMENT and all said contractors shall certify and disclose accordingly.

62. ASSIGNMENT AND TRANSFER

DEVELOPER shall not assign or transfer any interest or obligation in this AGREEMENT without the prior written consent of COUNTY, unless otherwise provided herein. Claims for money due to DEVELOPER from COUNTY under this AGREEMENT may be assigned to a bank, trust company, or other financial institution without COUNTY consent, if and only if, the instrument of the assignment provides that the right of the assignee in and to any amounts due or to become due to DEVELOPER shall be subject to prior claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the work called for in this AGREEMENT. DEVELOPER shall furnish COUNTY with notice of any such assignment or transfer.

63. CONFIDENTIALITY

DEVELOPER shall comply with all pertinent Federal and State statutes, rules, regulations, and county ordinances related to confidentiality. Specifically, COUNTY and DEVELOPER agree that:

- A. Client specific information, including, but not limited to, information which would identify any of the individuals receiving services under this AGREEMENT, will at all times remain confidential and not be disclosed to any unauthorized person, forum, or agency except as permitted or required by law.
- B. Client specific information will be released only as permitted by law and only to persons and entities who have a specific need for the information which is directly connected to the delivery of service to the client under the terms of this AGREEMENT and only where such persons require the requested information to carry out official functions and responsibilities.
- C. DEVELOPER shall inform persons and entities who receive client specific information pursuant to this AGREEMENT of the confidential nature of the information and the prohibitions regarding re- disclosure of this information.
- D. Upon request from COUNTY and/or HUD, client specific information, shall be exchanged between DEVELOPER, COUNTY and/or HUD consistent with applicable federal and state statutes, for the following purposes:
 - (1) Mandated reporting to HUD;
 - (2) Meeting HUD monitoring requirements;
 - (3) Fiscal and program audits and evaluations.
- E. DEVELOPER shall comply with the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the extent those regulations apply to the services the DEVELOPER provide or purchase with pursuant to the terms of this AGREEMENT.

64. CONFLICT OF INTEREST

DEVELOPER shall comply with the provisions of 24 CFR § 92.356(f) which provides that no owner, developer or sponsor (or officer, employee, agent, elected or appointed official or consultant of said entity) of a HOME assisted project (or an immediate family member of any such listed person) may occupy a unit in the PROJECT during the affordability period. Excepted from this prohibition is an employee or agent of DEVELOPER who occupies a housing unit at the project manager or maintenance

worker.

65. DISPLACEMENT, RELOCATION, AND ACQUISITION

- A. Consistent with the requirements under 24 CFR § 92.353, DEVELOPER shall take all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of the PROJECT assisted under this AGREEMENT. To the extent feasible, residential tenants displaced by the PROJECT shall be provided a reasonable opportunity to lease and occupy a suitable, decent, safe, sanitary, and affordable dwelling unit in the building/complex upon completion of the project.
- B. DEVELOPER shall comply with the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and its regulations at 49 CFR Part 24; Department of Housing and Urban Development (HUD) regulations 24 CFR § 570.606; Sec. 32.185 through 32.29, Wis. Stats. and Ch. COMM 202 of Wisconsin Administrative Codes.

66. DRUG FREE WORKPLACE

DEVELOPER shall provide a drug-free workplace by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in each DEVELOPER'S workplace and specifying the actions that will be taken against an employee for violation of such prohibition; and
- B. Establishing an ongoing drug-free awareness program to inform employees about
 - (1) The dangers of drug abuse in the workplace;
 - (2) The policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace; and
- C. Ensuring that each employee engaged in the performance of work funded under this AGREEMENT be given a copy of the statement required by paragraph A; and
- D. Notifying the employee in the statement required by paragraph A that, as a condition of employment, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of criminal drug statute occurring in the workplace no later than five calendar days after such conviction; and
- E. Within 10-calendar days after receiving notice under subparagraph D(2) from an employee or after having otherwise receiving actual notice of such conviction, providing notice to COUNTY of such conviction. Said notice to COUNTY shall include: the employee's name and the title of the employee's position.
- F. Within 30 calendar days of receiving notice under subparagraph D(2), with respect to any employee who is so convicted, DEVELOPER shall:
 - (1) Take appropriate personnel action against such an employee up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Require such employee to participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

67. GRANT CLOSEOUT

DEVELOPER' obligations under this AGREEMENT shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the COUNTY), and determining custodianship of records. Notwithstanding the foregoing, the terms of this AGREEMENT shall remain in effect during any period that DEVELOPER has control over HOME funds, including program income. DEVELOPER understand and acknowledge that all reporting requirements survive the expiration of this AGREEMENT and that all HOME requirements remain in force until the expiration of the affordability period.

68. INDEMNIFICATION

Except when such losses, claims, damages or liabilities are the fault of COUNTY, DEVELOPER shall, for itself, indemnify and hold COUNTY harmless against any losses, claims, damages, or liabilities to which COUNTY may be subject as a result of any claim for services related to the transactions contemplated hereunder or arising out of any such claim, including but not limited to claims arising from the construction, use or occupancy of the PROJECT and including all common law damage claims, civil rights actions, or contractual claims of any kind and will reimburse COUNTY for any reasonable legal or other expenses incurred by it in investigating or defending any such claim or liability asserted therefore.

69. INSURANCE

- A. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, employees and representatives under the indemnity provisions of this AGREEMENT, DEVELOPER shall obtain and at all times during the term of this AGREEMENT, keep in full force and effect comprehensive general liability and auto liability insurance policies (as well as professional malpractice or errors and omission coverage for professional service or where applicable), issued by a company or companies authorized to do business in the State of Wisconsin and licensed by the Wisconsin Insurance Department, with liability coverage provided for therein in the amounts of at least \$1,000,000.00 CSL (Combined Single Limits). Coverage afforded shall apply as primary. COUNTY shall be given ten (10) days advance notice of cancellation or nonrenewal. Upon execution of this AGREEMENT, DEVELOPER, for itself, shall furnish COUNTY with a certificate of insurance listing COUNTY as an additional insured on DEVELOPER'S policies and, upon request, provide certified copies of the required insurance policies. If DEVELOPER insurance is underwritten on a Claims-Made basis, the Retroactive Date shall be prior to or coincide with the date of this AGREEMENT, the Certificate of Insurance shall state the professional malpractice or errors and omissions coverage, if the services being provided are professional services coverage is Claims-Made and indicate the Retroactive Date. DEVELOPER shall maintain this required insurance coverage for the duration of this AGREEMENT and for six (6) years following completion of this AGREEMENT. DEVELOPER shall furnish COUNTY annually on the policy renewal date, a Certificate of Insurance as evidence of coverage. It is further agreed that DEVELOPER shall furnish COUNTY with a 30-day notice of aggregate erosion, in advance of the Retroactive Date, cancellation, or renewal. It is also agreed that on Claims-Made policies, DEVELOPER, for itself, or COUNTY may invoke the tail option on behalf of the other party and that the Extended Reporting Period premium shall be paid by the said DEVELOPER. In the event any action, suit or other proceeding is brought against COUNTY upon any matter herein indemnified against, COUNTY shall give reasonable notice thereof to DEVELOPER and shall cooperate with DEVELOPER' attorneys in the defense of the action, suit or other proceeding.
- B. DEVELOPER shall furnish COUNTY with evidence of adequate Worker's Compensation Insurance.
- C. In case of any sublet of work under this AGREEMENT, DEVELOPER shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required of DEVELOPER.

- D. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all insurance coverage and indemnification requirements, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this AGREEMENT.
- E. DEVELOPER shall obtain a current ALTA form of title insurance for the PROPERTY in an amount and format acceptable to COUNTY that names COUNTY as an insured.
- F. DEVELOPER shall ensure that every contractor participating in the PROJECT shall obtain contractor's multiple perils builders risk hazard insurance in an amount acceptable to COUNTY, with a provision for 30-days written notice to COUNTY of cancellation, non-renewal, or known material change.

70. INSURANCE AND CONDEMNATION PROCEEDS

COUNTY agrees that insurance and condemnation proceeds shall be used to rebuild or restore the PROJECT provided that (i) if such proceeds are not reasonably sufficient to so rebuild or repair, sufficient additional funds are provided from other sources to rebuild or restore the Project and (ii) COUNTY shall have the right to reasonably approve plans and specifications for any major rebuilding and the right to reasonably approve disbursement of such proceeds under a construction escrow or similar arrangement, subject to the prior rights of any senior lenders.

71. LEAD-BASED PAINT

DEVELOPER shall comply with the provisions of the Lead-Based Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at 24 CFR Part 35, subparts A, B, J, K, M, and R, as well as, State and local laws regarding lead paint. State of Wisconsin Code HFS 163 applies to any person performing, supervising, or offering to perform or supervise a lead-based paint activity involving housing or a child-occupied facility constructed prior to 1978 (unless the property is occupied by the elderly, or the disabled, or is a zero-bedroom dwelling unit.) These standards in part require certification of all inspectors, supervisors, and workers by DHFS; a person certified as a supervisor of lead hazard reduction must be on the site at all times when work designed to reduce lead-based paint hazards is being performed and must have his/her certification card on the premises; and that the supervisor of the lead hazard reduction work notify Wisconsin DHFS a minimum of 10 days prior to commencing the work.

72. LICENSE, CERTIFICATION, AND STANDARD COMPLIANCE

- A. Service Standards. DEVELOPER shall comply at all times during the period of this AGREEMENT, with all State and Federal service standards as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this AGREEMENT.
- B. Licenses and Certifications. Where required by law, DEVELOPER will be at all times, licensed or certified by either the State or County as a qualified DEVELOPER of the services purchased herein. DEVELOPER shall submit copies of the required licenses or certifications upon request by COUNTY.
- C. County Standard. Where DEVELOPER is not certified, licensed, or otherwise regulated, and COUNTY desires to apply a specific set of standards to DEVELOPER, the same are specified in this AGREEMENT.
- D. Background Checks. DEVELOPER shall complete background checks for all employees having

regular contact with children, elderly or vulnerable adults.

- E. Notification. DEVELOPER shall notify the COUNTY promptly, in writing, if it is unable to comply with any of the above State or Federal requirements.

73. INTENTIONALLY OMITTED

74. MATCHING CONTRIBUTION REQUIREMENT

DEVELOPER shall report to the COUNTY those sources of support for the PROJECT, which are recognized as being a form of matching contribution, as set forth in 24 CFR Part 92.220 by December 31 of each year covered by this AGREEMENT. Matching contributions should total 25 percent of the total project cost.

75. MONITORING

- A. Unless a violation of State, Federal or local law is alleged, COUNTY will give no less than ten (10) working days notice before a review or monitoring procedure. DEVELOPER shall submit to such monitoring by COUNTY as the COUNTY may request during the term of this AGREEMENT and throughout the affordability period. Monitoring will be directed toward any program performance, financial performance, and regulatory performance, including but not limited to: AGREEMENT compliance, certification status, financial expenditures, reporting requirements, units of service provided, Affirmative Action Plan, Civil Rights Compliance Plan, Eviction Reporting, American Disability Act Compliance, on-site visits by COUNTY staff and/or county board members, or both, interview with program beneficiaries, interviews with direct service and management personnel. The State and/or Federal government may also conduct review in connection with their oversight functions. DEVELOPER will cooperate with COUNTY, State, and Federal governments in these reviews.
- B. DEVELOPER shall cooperate with the COUNTY in resolving any findings or concerns resulting from the monitoring within the timelines specified by the COUNTY.

76. NO WAIVER OF RIGHT OF RECOVERY

In no event shall the making of any payment or acceptance of any service or product required by this AGREEMENT constitute or be construed as a waiver by COUNTY of any breach of the covenants of this AGREEMENT or a waiver of a default. The making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

77. PENALTIES

- A. DEVELOPER shall provide prompt notice to COUNTY in the event that it will be unable to meet any deadline, including deadlines for filing reports, set by COUNTY. Concurrent with notification, DEVELOPER shall submit either a request for an alternative deadline or optional courses of action of both. COUNTY may grant or deny the request. COUNTY has the prerogative to withhold payment to DEVELOPER upon denial of request or until any condition set by COUNTY is met. In the case of contracts that have been renewed or continued from a previous contractual period, COUNTY may withhold payment in the current period for failures that occurred in a previous period.
- B. If COUNTY is liable for damages sustained as a result of breach of this AGREEMENT by DEVELOPER, COUNTY may withhold payments to DEVELOPER as set off against said damages.

- C. If, through any act or failure of action by DEVELOPER, COUNTY is required to refund money to a funding source or granting agency, DEVELOPER shall pay to COUNTY within ten (10) working days any such amount, along with any interest and penalties.

78. PROJECT MANAGER

DEVELOPER shall obtain COUNTY'S approval of any property manager selected to manage the DEVELOPMENT prior to entering into a management contract (other than Oakbrook Corporation) DEVELOPER shall provide COUNTY with prior written notice of any change in the designated property manager and COUNTY shall notify DEVELOPER within 30-days of the date of such notice if it does not approve of the entity chosen.

79. RECORDS

- A. Public Access to Program Records. In accordance with 24 CFR 92.508, the DEVELOPER shall provide citizens, public agencies, and other interested parties with reasonable access to records, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.
- B. HUD Access to Records. DEVELOPER shall provide HUD and the Controller General of the United States, and any of their representatives, access upon request to any pertinent books, documents, papers or other records of the DEVELOPER in order to make audits, examinations, excerpts, and transcripts.
- C. Open Records Requests. DEVELOPER shall assist COUNTY in promptly fulfilling or answering any open records request, in the manner determined by COUNTY, of a record not protected by a law requiring confidentiality, that either DEVELOPER keeps or maintains on behalf of COUNTY.
- D. Records Retention. DEVELOPER shall retain all records required by this AGREEMENT for the most recent five year period in accordance with 24 CFR 92.508(c), except as provided below:
 - (1) For rental housing projects, records must be retained for five years after the project completion date; except that records of individual tenant income verifications, project rents, and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates.
 - (2) Written AGREEMENTS must be retained for five years after the AGREEMENT terminates.
 - (3) Records covering displacements and acquisition must be retained for five years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR 92.353.
 - (4) If any litigation, claim, negotiation, audit, monitoring, inspection, or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever, whichever is later.

80. SECTION 3 OF HOUSING AND URBAN DEVELOPMENT ACT OF 1968

- 1. If the maximum cost of this AGREEMENT exceeds \$200,000 and the services purchased hereby are for housing rehabilitation, housing construction, or other public construction, such as the construction of homeless shelters and transitional living quarters, DEVELOPER shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) and the implementing regulations found at 24 CFR Part 75 (herein "Part 75"). Section 3 and Part 75 require recipients of over \$200,000 in HUD assistance, to make an effort to recruit low-income people for job openings and recruit businesses that provide economic assistance to low-income people.
- 2. DEVELOPER hereby certifies that it is not under any contractual or other impediment that would prevent it from complying with the Part 75 regulations.

3. DEVELOPER shall comply with the following Section 3 requirements and include the following clauses in every contract or subcontract for work performed in connection with this AGREEMENT:
- 1) The work to be performed under this contract (subcontract) is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (Section 3). See 12 U.S.C. 1701u. The purpose of Section 3 is to ensure that employment and other economic activities generated by certain HUD assistance and HUD assisted projects shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly those who are recipients of government housing assistance and to businesses that provide economic assistance to low and very low income persons.
 - 2) DEVELOPER agrees to send, and shall ensure that all of the DEVELOPER'S contractors and subcontractors sends, to each labor organization or workers' representative with which the DEVELOPER or DEVELOPER'S contractors and subcontractors has a collective bargaining AGREEMENT or other understanding, if any, a notice advising the labor organization or workers' representative of DEVELOPER and the DEVELOPER'S contractor's and subcontractor's commitment under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each and the name and location of the person(s) taking applications for each of the positions and the anticipated date the work shall begin.
 - 3) DEVELOPER agrees to take appropriate action, and shall ensure that DEVELOPER'S contractors and subcontractors agree to take appropriate action, as required by Section 3 and Part 75, upon a finding that any of its contractors (subcontractors) is in violation of Section 3 or Part 75. DEVELOPER will not contract with, and will ensure that DEVELOPER'S other contractors (subcontractors) will not contract with, any other party if DEVELOPER or DEVELOPER'S other contractor (subcontractor) has notice or knowledge that the party has been found in violation of the Part 75 regulations.
 - 4) DEVELOPER shall certify, and shall ensure that DEVELOPER's contractors and subcontractors certify, that any vacant employment positions, including training positions, that are filled (1) after DEVELOPER and its contractor (subcontractor) are selected but before this AGREEMENT or a DEVELOPER'S contract (subcontract) is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the DEVELOPER'S obligations under 24 CFR Part 75.
 - 5) DEVELOPER acknowledges, and will ensure that DEVELOPER'S contractors and subcontractors acknowledge, that non-compliance with the regulations set forth in 24 CFR Part 75 may result in sanctions, termination of this AGREEMENT and/or the DEVELOPER'S contracts (subcontracts) for default and debarment from future HUD-assisted contracts.

81. TERMINATION, SUSPENSION, AND/OR MODIFICATION

- A. DEVELOPER acknowledge that COUNTY may suspend or terminate this AGREEMENT if DEVELOPER materially fails to comply with any term of the AGREEMENT, subject to applicable notice and cure periods set forth in this AGREEMENT.
- B. Failure of DEVELOPER to fulfill any of its obligations under AGREEMENT in a timely manner or violation by either DEVELOPER of any covenants or stipulations contained in this AGREEMENT shall, after written notice and an opportunity to cure in accordance with Section 18, constitute grounds for COUNTY to terminate this AGREEMENT upon thirty (30) days prior written notice to DEVELOPER.
- C. The following shall constitute grounds for immediate termination after written notice and, where permitted by law, a reasonable opportunity to cure:
 - (1) Violation by DEVELOPER of any State, Federal, or local law or failure to comply with any applicable State and Federal service standards as expressed by applicable statutes, rules, and regulations.
 - (2) Failure by DEVELOPER to carry applicable licenses or certifications as required by law.
 - (3) Failure of DEVELOPER to comply with reporting requirements contained herein.
 - (4) Inability of DEVELOPER to perform the work required by this AGREEMENT.
- D. In the event of cancellation or reduction of State or Federal funding upon which COUNTY relies to fulfill its

obligations under this AGREEMENT, DEVELOPER acknowledge that COUNTY may take any of the following actions:

- (1) COUNTY may terminate this AGREEMENT, upon thirty (30) days written notice.
- (2) COUNTY may suspend this AGREEMENT without notice for purposes of evaluating the impact of changed funding.
- (3) COUNTY may reduce funding under this AGREEMENT upon thirty (30) days written notice. If COUNTY opts to reduce funding under this provision, COUNTY may, after consultation with DEVELOPER, specify the manner in which DEVELOPER shall reduce expenditures on designated materials, services, and/or costs.

82. OTHER MISCELLANEOUS PROVISIONS

- A. Limitation of AGREEMENT. This AGREEMENT is intended to be an AGREEMENT solely between the parties hereto and for their benefit only. No part of this AGREEMENT shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees or subcontractors of either of the parties. Where any DEVELOPER intends to meet its obligations under this or any part of this AGREEMENT through a subcontract DEVELOPER shall ensure that it requires of its subcontractor(s) the same obligations incurred by DEVELOPER under this AGREEMENT.
- B. Entire AGREEMENT. The entire AGREEMENT of the parties is contained herein and this AGREEMENT supersedes any and all oral AGREEMENTS and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this AGREEMENT shall not be amended in any fashion except in writing, executed by both parties.
- C. Severability. The invalidity or un-enforceability of any particular provision of this AGREEMENT shall not affect the other provisions herein, and this AGREEMENT shall be construed, in all respects, as though all such invalid or unenforceable provisions were omitted.

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ARTICLE V: FINANCIAL TERMS

83. AUDITS

If either DEVELOPER expends \$750,000 or more in total Federal financial assistance in a year, DEVELOPER is responsible for obtaining an independent audit in accordance with the Single Audit Act of 1984 and 2 CFR part 200. Such Federal financial assistance may be in the form of grants, loans, contracts, loan guarantees, property, interest subsidies, insurance, direct appropriations, and other non-cash assistance.

84. BOND

- A. If DEVELOPER has any employees, then at all times during the term of this AGREEMENT DEVELOPER shall maintain an employee dishonesty bond in an amount sufficient to hold DEVELOPER harmless in the event of employee fraud or defalcation. Such bond shall insure DEVELOPER against the loss of funds provided through this AGREEMENT and the loss of client funds to which DEVELOPER or its employees have access through the services provided through this AGREEMENT. DEVELOPER shall furnish evidence of having met this requirement upon request by COUNTY.
- B. Intentionally Deleted.

85. NOTICE OF FINANCIAL INSTABILITY

DEVELOPER shall promptly notify COUNTY, in writing, of any of the following events:

- A. DEVELOPER is unable to meet its financial obligations to its employees, to the state or federal government, or to any creditor.
- B. DEVELOPER has written one or more checks drawn on insufficient funds and, as a result, the DEVELOPER has caused an overdraft in its bank accounts in excess of \$25,000 during any 30-day period.
- C. A lawsuit or other claim has been filed against DEVELOPER and the relief requested by petitioner includes an award of liquidated damages in excess of \$25,000.00.
- D. DEVELOPER has filed a petition under any chapter of the United States Bankruptcy Code.
- E. DEVELOPER has sustained or will sustain a loss for which it has insufficient financial resources.
- F. Any other event that impedes DEVELOPER'S ability to perform under this AGREEMENT.

86. PROCUREMENT STANDARDS

DEVELOPER is the responsible authority, without recourse to HUD or the COUNTY, regarding the settlement of all contractual and administrative issues arising out of the procurement entered in support of this AGREEMENT.

87. PURCHASED EQUIPMENT

Where applicable, DEVELOPER shall comply with the State of Wisconsin's Allowable Cost Policy Manual, which requires that any asset with an acquisition cost in excess of \$5000 be capitalized. DEVELOPER shall make requests for any exceptions to this policy in writing to the appropriate Division Manager for COUNTY. These requests shall be made prior to the purchase of any such asset.

[The remainder of this page is intentionally left blank]

ARTICLE VI: RECORDKEEPING AND REPORTS

88. RECORDS TO BE MAINTAINED

- A. DEVELOPER shall ensure that it and its subcontractors maintain all records specified in 24 CFR § 92.508. These records include, but are not limited to:
- B. A full description of each project assisted with HOME funds, including the location, form of HOME assistance, and the units or tenants assisted with HOME funds.
- C. The source and application of funds for each project, including supporting documentation.
- D. Records demonstrating that each rental housing or homeownership project meets the minimum per-unit subsidy amount of 24 CFR § 92.205(c), the maximum per-unit subsidy amount of 24 CFR § 92.250(a), and the subsidy layering guidelines adopted in accordance with 24 CFR § 92.250(b).
- E. Records demonstrating that each project meets the property standards of 24 CFR § 92.251 and the lead based paint requirements of 24 CFR § 92.355.
- F. Records demonstrating that each family is income eligible in accordance with 24 CFR 92.203.
- G. Records demonstrating that each rental housing project meets the affordability and income targeting requirements of 24 CFR § 92.252 for the required period. Records must be kept for each family assisted.
- H. Records demonstrating that each multifamily rental housing project involving rehabilitation with refinancing complies with the refinancing guidelines established in accordance with 24 CFR § 92.206(b).
- I. Records which demonstrate compliance with the requirements in 24 CFR § 92.353 regarding acquisition, displacement, relocation, and replacement housing.
- J. Financial records.
- K. Audit reports.
- L. Records required to be maintained in accordance with other applicable laws and regulations set forth in 24 CFR § 92.508, which include, but is not limited to: equal opportunity and fair housing records, affirmative marketing and MBE/WBE records, labor standards; national flood insurance; lead-based paint; use of debarred, suspended, or ineligible contractors; and conflict of interest requirements.
- M. Records shall be accurate, complete, and orderly.
- N. DEVELOPER shall ensure that COUNTY, HUD, and the Comptroller General of the United States, and other authorized governmental agencies have the right of access to any pertinent records of DEVELOPER and DEVELOPER'S subcontractors for purposes of conducting audits, examinations or investigations and permit said entities to make copies of said records as necessary.

89. REPORTS REQUIRED

- A. DEVELOPER agrees to provide the following reports to COUNTY as required by this agreement:
 - (1) Affirmative Action/Civil Rights Compliance Plan. If DEVELOPER is required by the terms of this AGREEMENT to submit an Affirmative Action Plan or a Civil Rights Compliance Plan, DEVELOPER agrees to submit the AA/CRC Plans as specified by the terms of this AGREEMENT.
 - (2) Affirmative Marketing Plan. DEVELOPER shall submit to COUNTY an Affirmative Marketing Plan that complies with the requirements of 24 CFR 92.351 prior to the lease-up of any units.
 - (3) Annual HOME Rent and Occupancy Reports. DEVELOPER shall submit annual rent and occupancy data for HOME-assisted rental units in a format provided by the COUNTY on or before January 31 of each year.
 - (4) Audit Reports. DEVELOPER shall submit its auditors' reports to the COUNTY within 30 days of receipt of the reports as specified by this AGREEMENT.
 - (5) Beneficiary/Participant Reports. DEVELOPER shall submit to COUNTY, program beneficiary/ participant reports in a format provided by COUNTY on a monthly basis at the time that a HOME unit is first leased to a new tenant until full rent-up is achieved for HOME assisted units. COUNTY will require submission of demographic information on all applicants for the HOME assisted units in addition to those who occupy the units.

- (6) Evaluation Reports. DEVELOPER shall submit to COUNTY any third-party evaluations or accreditation DEVELOPER obtain during the term of this AGREEMENT. Said evaluations or accreditations shall be submitted to COUNTY at the time received.
- (7) Expense Reports. DEVELOPER shall submit expense reports with supporting documentation on the form provided by COUNTY. The amount of reimbursement is limited to the amount needed for payment of eligible costs.
- (8) Labor Standards Enforcement Report. If applicable, DEVELOPER shall provide information to the COUNTY in a format and time dictated by the COUNTY sufficient for the COUNTY submit the Semi-Annual Labor Standards Enforcement Report to HUD
- (9) Lease. DEVELOPER shall provide copies of the tenant lease to the COUNTY prior to lease-up and on an annual basis. The lease must meet the requirements of 24 CFR 92.253.
- (10) Matching Contributions Report. DEVELOPER shall submit information in a format dictated by the COUNTY sufficient to enable the COUNTY to meet its annual reporting requirements under 24 CFR 92.218-92.222 including a running log and project records documenting the type and amount of match contributions by project by January 31 of each year.
- (11) Minority, Women, Small and Local Business Reports. DEVELOPER shall submit information in a format dictated by the COUNTY sufficient to enable the COUNTY to meet its reporting requirements under 24 CFR 92.508 (7). COUNTY'S reports are due to HUD by April 30 and October 31 of each year.
- (12) Tenant Participation Plan. DEVELOPER shall submit a Tenant Participation Plan that complies with the requirements of 24 CFR 92.303 that meets the COUNTY's approval. DEVELOPER will ensure tenant participation in management decisions.
- (13) Tenant Selection Policies and Criteria. DEVELOPER shall submit written tenant selection policies and criteria that comply with the requirements of 24 CFR 92.253 for COUNTY's approval prior to the lease-up of any units.
- (14) Eviction Report. DEVELOPER shall submit an Eviction Report annually during the term of this AGREEMENT, in a form supplied by the County, containing the following information: the number of eviction actions filed, the reason for eviction, the number of eviction notices, issued to the tenants in the twelve months preceding the eviction filing, the number of eviction judgments granted, writs executed, and/or other case resolution (e.g. vacated prior to execution of writ or allowed to stay with conditions). This report shall be due to the COUNTY no later than January 15 and shall reflect the period from January 1 to December 31 of the previous calendar year.

- B. DEVELOPER understand that time is of the essence with respect to all reports and agree to make all reports in a timely manner as provided below, and agree that if they fail to timely submit any report due under the terms of this AGREEMENT, COUNTY may withhold payment until such report is provided, including payment due from either a previous year or the current year.
- C. DEVELOPER understand and acknowledge that all reporting requirements survive the expiration date of this AGREEMENT until the expiration of the Affordability Period.
- D. DEVELOPER shall assist COUNTY in meeting any other reporting requirements that may arise during the term of this AGREEMENT.

90. NOTICE TO APPLICANTS AND TENANTS

DEVELOPER agrees to post a sign in a common area of the building that is frequented by applicants and residents. The sign shall be conspicuously located and include the following information:

- A. The amount of funding provided by Dane County;
- B. The year that such funding was provided by Dane County;
- C. A statement notifying the public that the housing may be subject to additional requirements for

- resident selection and property management due to the requirements associated with the County's funding of the project;
- D. The contact information for Dane County's contract compliance office, including a website, email, and phone number, for interested persons to obtain more information about the project and register any concerns.
 - E. The RECIPIENT further agrees that if the sign is posted on the exterior of the building that they shall follow all applicable municipal zoning ordinances.

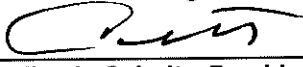
[Signature Pages to Immediately Follow]

IN WITNESS WHEREOF, COUNTY and DEVELOPER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

SKY RIDGE – SUN PRAIRIE, LLC

By: Sky Ridge – Sun Prairie – MM, LLC,
Its Manager

By: NORTHPOINTE DEVELOPMENT II CORPORATION,
Its Manager

By: 

Callan L. Schultz, President

Date Signed: 1/18/2024

DANE COUNTY

BY: 

Joe Parisi, County Executive

Date Signed: 2/7/2024

BY: 

Scott McDonell, County Clerk

Date Signed: 2/13/2024

SCHEDULE A
Sky Ridge Apartments and Townhomes
HOME PROGRAM
(Scope of Services)

ELIGIBLE ACTIVITY

Each activity funded under this Agreement must meet the eligibility requirements of the HOME Investment Partnerships Act at Title II of the Cranston-Gonzalez National Affordable Housing Act as amended, 42 U.S.C. 12701 et seq. and the federal regulations promulgated thereunder. The activities described in this Schedule A are eligible under 24 Code of Federal Regulations Part 92.205(a)(1).

1. PROJECT

- A. In accordance with 24 CFR § 92.205(d), the PROJECT shall consist of the construction of 5 units of low-income rental housing of the type, number of bedrooms, and rent levels described in this AGREEMENT. PROJECT units are part of a 75 unit affordable rental housing development to be known as Sky Ridge Apartments and Townhomes.
- B. At least 2 of the HOME units shall be occupied by very low income families and meet one of the rent requirements listed in 24 CFR § 92.252(b).
- C. PROJECT units are fixed and shall be leased only to HOME eligible low or very low-income families.

2. PROJECT LOCATION/SITE ADDRESS

- A. The real PROPERTY and improvements thereto is described as follows:

PROPERTY address: 1050 East Main Street, Sun Prairie, WI 53590

PROPERTY legal description:

LOT 1 AND OUTLOT 1 OF CERTIFIED SURVEY MAP NO. 16354 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR DANE COUNTY, WISCONSIN ON SEPTEMBER 26, 2023, IN VOLUME 121 OF CERTIFIED SURVEY MAPS, PAGE 295 AS DOCUMENT NO. 5925893, SAID CERTIFIED SURVEY MAP BEING PART OF THE SOUTHEAST QUARTER AND SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 04, TOWNSHIP 08 NORTH, RANGE 11 EAST, IN THE CITY OF SUN PRAIRIE, DANE COUNTY, WISCONSIN.

Tax Parcel Nos. 282-0811-044-6601-2 and 282/0811-044-6634-2

3. PROPERTY DESCRIPTION

The DEVELOPMENT/PROJECT site is located at the address set forth above. The site is approximately 138,372 square feet (or 3.175 acres) and is currently vacant land.

4. PROJECT DEVELOPER

| | |
|----------------------------------|------------------------------|
| Name: | Sky Ridge – Sun Prairie, LLC |
| Address: | 200 Ohio Street STE 200 |
| City, State, Zip: | Oshkosh, WI 54902 |
| Primary Contact Person and Title | Sean O'Brien; Partner |
| Telephone: | (608) 334-5665 |
| Alternate Phone: | - |
| Fax: | - |
| Email Address: | sean@northpointedev.com |
| Percent of Ownership | 100 |

5. PROPERTY MANAGER

| | |
|----------------------------------|------------------------------|
| Name: | ACC Management Group, Inc. |
| Address: | 2375 State Road 44 Suite A |
| City, State, Zip: | Oshkosh, WI 54904 |
| Primary Contact Person and Title | Chris Hand; Principal |
| Telephone: | (920) 966-9905 |
| Alternate Phone: | - |
| Fax: | - |
| Email Address: | chris@accmanagementgroup.com |

6. OTHER PARTIES

| | |
|----------------------------------------------|----------------------------------------------------------------|
| Accountant | Don Bernards (Baker Tilly) |
| Architect | Bob Feller (Knothe & Bruce Architects, LLC) |
| Attorney | Bill Cummings (Reinhart, Boerner Van Deuren S.C.) |
| Service Coordination and Supportive Services | Lutheran Social Services of Wisconsin and Upper Michigan, Inc. |
| Housing Authority | Dane County Housing Authority |

7. NOTICES

All notices, demands, and communications provided for herein or made hereunder shall be delivered, or sent by certified mail, return receipt requested, address in each case as follows, until some other address shall have been designated in a written notice to the other party hereto given in like manner and shall be deemed to have been given or made when so delivered or mailed.

TO DEVELOPER/OWNER:

Sky Ridge – Sun Prairie, LLC
230 Ohio Street STE 200
Oshkosh, WI 54902
ATTN: Callan L. Schultz

Copies of any and all notices of default and any and all other notices that may be given by County to Developer shall be sent, in the same manner as the notice is given to Developer, to Developer's investor member at the following address:

ONB Community Equity, LLC
c/o Mike Harbaugh
5200 Cascade Road, S.E.
Grand Rapids, MI 49546-6402

With Copy to:

Applegate & Thorne-Thomsen
425 South Financial Place, Suite 1900
Chicago, IL 60605
Attention: Warren Wenzloff

TO COUNTY:

Division of Housing Access and Affordability
City County Building, Room 421
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

AND:

Office of the Corporation Counsel
City County Building, Room 419
210 Martin Luther King Jr. Blvd.
Madison, WI 53703

Notification of change shall be delivered to COUNTY and DEVELOPER/OWNER within ten days of any change affecting this provision.

8. ARCHITECT/ENGINEER

DEVELOPER shall contract with a registered Project Architect/Engineer. The Project Architect/Engineer shall:

- A. Approve all building plans and specifications for compliance with federal, state, and local codes, ordinances, and building standards; monitor the progress and quality of work performed; coordinate bi-weekly job meetings and project inspections with COUNTY;
- B. Create a schedule of values for construction costs and authorize all construction cost requests from all PROJECT funding sources;
- C. Provide a written and signed certification of compliance with all property standards as required by this AGREEMENT.

9. ENVIRONMENTAL REVIEW/REMEDIATION

COUNTY will not commit HOME funds under this AGREEMENT until it has complied with the environment review regulations at 24 CFR Part 58. COUNTY'S environmental review shall include, but not be limited to, ascertaining the project's effect on: noise, thermal, and man-

made hazards, historic properties, floodplains, and air and water pollution. In fulfillment of the above:

- A. COUNTY has conducted an environmental review to ascertain the environmental status of the project and the types of procedures (the conditions), if any, the DEVELOPER must follow in order to comply with the National Environmental Policy Act of 1969, and applicable Federal, State, and local regulations.
- B. COUNTY will not release funds for the project, nor will the DEVELOPER obligate HUD funds for the project, until COUNTY has obtained a certification for the release of funds from HUD. COUNTY will notify the DEVELOPER of such a certification and will outline in a subsequent written communication, the conditions, if any, for environmental compliance.
 - a. Mitigation as noted in the Notice to Proceed:
 - i. Noise Abatement and Control
 - 1. The building will be designed with appropriate insulation to reduce noise inside the buildings. An additional 1-inch of rigid insulation will be installed in the walls of the new apartment units to mitigate indoor decibel levels. Please submit documentation showing the installation of additional insulation.
 - 2. A Sound Transmission Classification Assessment Tool (STraCAT) was used to identify the different materials that will need to be used to reach the required STC rating of 26. Please submit documentation showing all the materials listed in the STraCAT was installed on the property.
- C. The DEVELOPER shall notify the COUNTY of newly discovered conditions or changes which would affect the status of the PROJECT in regard to applicable federal, state and COUNTY regulations.
- D. The DEVELOPER will allow inspection of the project by federal, state and COUNTY officials or their agents and shall fully cooperate in such inspections.

10. BUDGET SUMMARY

| SOURCE | AMOUNT | RATE | TERM (Years) | AMORT. PERIOD (Years) | ANNUAL DEBT SERVICE |
|------------------------|-------------|-------|--------------|-----------------------|---------------------|
| Tax Credit Equity | \$7,932,847 | 0 | 0 | 0 | 0 |
| First Mortgage | \$8,740,000 | 6.45% | 35 | 35 | \$666,360 |
| WHEDA Sub Debt | \$1,633,227 | 3.00% | 17 | 35 | \$75,426 |
| GP Equity | \$100 | | | | |
| WHEDA TIF Loan | \$1,350,000 | 6.45% | 20 | 20 | NA |
| HOME | \$600,000 | 1% | 30 | 30 | \$23,158 |
| Dane County Affordable | \$1,500,000 | 2% | 35 | 0 | \$30,000 |

| | | | | | |
|------------------------|--------------|----|----|----|----|
| Housing Funds | | | | | |
| Deferred Developer Fee | \$2,378,262 | NA | NA | NA | NA |
| Total | \$24,134,436 | | | | |

11. USE OF FUNDS/APPLICATION OF PROCEEDS

DEVELOPER shall use HOME FUNDS to pay for the construction expenses for 5 HOME units as detailed in the attached budget. All expenses to be reimbursed with FUNDS shall be approved by the COUNTY. The FUNDS are to be applied as shown in the budget. DEVELOPER shall secure all funds, in addition to HOME Loan Funds, which may be necessary to complete the PROJECT.

12. UNIT DESCRIPTION

- A. The units in the PROJECT are described in the section of this Schedule A entitled "Assisted Rental Units'.
- B. 5 units are designated as HOME-assisted units.
- C. At least 5 of the units shall be made available to households that qualify as very low-income.
- D. Two percent of the PROJECT units (2) shall be accessible for person with sensory impairments. Five percent of the PROJECT units (4) shall be fully accessible for persons with mobility impairments.
- E. Developer will maintain the total number of HOME-assisted units that are originally designated five (5) during the entire period of affordability. These are considered fixed HOME units.
- F. PROJECT units shall be used for residential purposes only.

13. SCHEDULE

- A. DEVELOPER acknowledges that time is of the essence for this AGREEMENT. The expenditure of HOME funds is subject to Federal deadlines and failure to meet these deadlines could result in the loss of Federal funds. By the acceptance and execution of this AGREEMENT, it is understood and agreed by the DEVELOPER that the PROJECT will be completed as expeditiously as possible and that the DEVELOPER will make every effort to work toward finishing the project in an expeditious and timely manner. FAILURE to meet the deadlines imposed by this AGREEMENT may result in the termination of this AGREEMENT and the revocation of HOME funds after written notice and an opportunity to cure as provided herein.
- B. Works is anticipated to be completed within the following milestones and timeframes, subject to delays and caused by force majeure:

| MILESTONE | COMPLETION DATE |
|-----------------------------------------------------------------------------------------------|-------------------|
| Notice to Proceed from County following receipt of Approval from HUD for the Release of Funds | November 8, 2023 |
| Development of Section 3 Plan | December 6, 2023 |
| Acquisition | January 18, 2024 |
| Site Preparation | January 18, 2024 |
| Excavation | January 18, 2024 |
| Construction Begins | January 18, 2024 |
| Substantial Completion | February 28, 2025 |
| Submission of the affirmative marketing plan, tenant selection plan, and proposed unit lease. | December 22, 2023 |
| Certificate of Occupancy | February 25, 2025 |
| Lease-up of 5 HOME assisted Units | June 1, 2025 |

14. PER UNIT SUBSIDY LIMIT

- A. The total amount of HOME funds that may be invested in the PROJECT on a per-unit basis may not exceed the current per-unit dollar limitations established under 24 CFR 92.250. For the purposes of this AGREEMENT, COUNTY has established a per-unit dollar limitation equal to the per-unit dollar limitation established under 24 CFR 92.250.

15. PERIOD OF AFFORDABILITY

- A. The HOME-assisted units must meet the affordability requirements for not less than twenty (20) years beginning on the day after project completion.
- B. The project is considered complete when all necessary title transfer requirements are met and construction work performed; the requirements of 24 CFR Part 92 have been met; the final drawdown of HOME funds has occurred; and all required information has been entered into HUD's disbursement and information system in accordance with 24 CFR §92.504(d).
- C. Except as provided in E. below, the affordability requirements apply without regard to the term of any loan or the transfer of ownership.
- D. Repayment of loan funds is required if the PROJECT does not meet the affordability requirements under 24 CFR §92.252 for the specified period of affordability.
- E. Notwithstanding the foregoing, this AGREEMENT shall terminate upon foreclosure or transfer in lieu of foreclosure. This AGREEMENT shall, however, be revived according to its original terms if, during original affordability period described above, the DEVELOPER, its successors, assigns, heirs, or grantees or any person or entity who DEVELOPER, its successors, assigns, heirs, or grantees has or had family or business ties, was/were the owner of record before the foreclosure, or deed in lieu of foreclosure, and obtains an ownership interest in the property upon foreclosure.

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ASSISTED RENTAL UNITS

| | | | | | |
|-----------------------------------------------|------------------|--------------------------------------------------|-----------------------------------------|-------------------------------------|-----------------------------------|
| SITE ADDRESS/BUILDING NO. | DATE CONSTRUCTED | UNIT TYPE | NUMBER OF UNITS | NUMBER OF UNITS TO BE HOME ASSISTED | NUMBER OCCUPIED BY LMI HOUSEHOLDS |
| 1050 E Main Street, Sun Prairie WI | New Construction | Multifamily | 75 | 5 | 75 |
| NUMBER OF STORIES: | 7 | Elevator? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| NUMBER OF UNITS ACCESSIBLE MOBILITY IMPAIRED: | 4 | NUMBER OF UNITS ACCESSIBLE FOR SENSORY IMPAIRED: | 2 | | |

| UNIT NUMBER | SQUARE FOOTAGE | NUMBER OF BEDROOMS | NUMBER OF BATHROOMS | ACCESSIBLE (HANDICAPPED OR SENSORY) | HOME ASSISTED |
|-------------|----------------|--------------------|---------------------|-------------------------------------|---------------|
| 101 | 1104 | 2 | 2 | | |
| 102 | 1104 | 2 | 2 | | |
| 104 | 752 | 1 | 1 | | |
| 106 | 474 | 1 | 1 | | |
| 108 | 747 | 1 | 1 | | |
| 110 | 729 | 1 | 1 | | |
| 112 | 1095 | 2 | 2 | | |
| 114 | 751 | 1 | 1 | | |
| 116 | 752 | 1 | 1 | | |
| 117 | 1138 | 2 | 2 | | |
| 118 | 738 | 1 | 1 | | |
| 119 | 752 | 1 | 1 | | |
| 120 | 751 | 1 | 1 | | |
| 121 | 1108 | 2 | 2 | | |
| 122 | 1104 | 2 | 2 | | |
| 201 | 1104 | 2 | 2 | | |
| 202 | 1104 | 2 | 2 | | |
| 204 | 752 | 1 | 1 | | |
| 205 | 752 | 1 | 1 | | |
| 206 | 1142 | 2 | 2 | | |
| 207 | 757 | 1 | 1 | | |
| 210 | 1129 | 2 | 2 | yes | yes |
| 212 | 1095 | 2 | 2 | | |
| 214 | 751 | 1 | 1 | | |
| 216 | 752 | 1 | 1 | | |
| 217 | 1138 | 2 | 2 | | |
| 218 | 738 | 1 | 1 | | |

| | | | | | |
|-------|------|---|-----|-----|-----|
| 219 | 752 | 1 | 1 | yes | yes |
| 220 | 751 | 1 | 1 | | |
| 221 | 1108 | 2 | 2 | | |
| 222 | 1104 | 2 | 2 | | |
| 301 | 1104 | 2 | 2 | | |
| 302 | 1104 | 2 | 2 | | |
| 304 | 752 | 1 | 1 | | |
| 305 | 752 | 1 | 1 | | |
| 306 | 1142 | 2 | 2 | | |
| 307 | 737 | 1 | 1 | | |
| 310 | 1129 | 2 | 2 | yes | yes |
| 312 | 1095 | 2 | 2 | | |
| 314 | 751 | 1 | 1 | | |
| 316 | 752 | 1 | 1 | | |
| 317 | 1133 | 2 | 2 | | |
| 318 | 738 | 1 | 1 | | |
| 319 | 752 | 1 | 1 | yes | yes |
| 320 | 751 | 1 | 1 | | |
| 321 | 1108 | 2 | 2 | | |
| 322 | 1104 | 2 | 2 | | |
| 401 | 1104 | 2 | 2 | | |
| 402 | 1104 | 2 | 2 | | |
| 404 | 752 | 1 | 1 | | |
| 405 | 903 | 1 | 1 | | |
| 406 | 1142 | 2 | 2 | | |
| 407 | 737 | 1 | 1 | | |
| 410 | 1129 | 2 | 2 | | |
| 412 | 1095 | 2 | 2 | | |
| 414 | 751 | 1 | 1 | | |
| 416 | 752 | 1 | 1 | | |
| 417 | 1133 | 2 | 2 | | |
| 418 | 738 | 1 | 1 | | |
| 419 | 752 | 1 | 1 | | |
| 420 | 760 | 1 | 1 | | |
| TH101 | 1382 | 3 | 2.5 | | |
| TH102 | 1388 | 3 | 2.5 | | |
| TH103 | 1388 | 3 | 2.5 | | |
| TH104 | 1388 | 3 | 2.5 | | |
| TH105 | 1388 | 3 | 2.5 | | |
| TH106 | 1382 | 3 | 2.5 | | |
| SF101 | 1291 | 3 | 2 | | |
| SF103 | 1260 | 3 | 2 | | yes |
| SF105 | 1291 | 3 | 2 | | |
| SF201 | 1363 | 3 | 2 | | |
| SF202 | 1331 | 3 | 2 | | |

| | | | | | |
|-------|------|---|---|--|--|
| SF203 | 1332 | 3 | 2 | | |
| SF204 | 1331 | 3 | 2 | | |
| SF205 | 1362 | 3 | 2 | | |

Detailed Project Budget

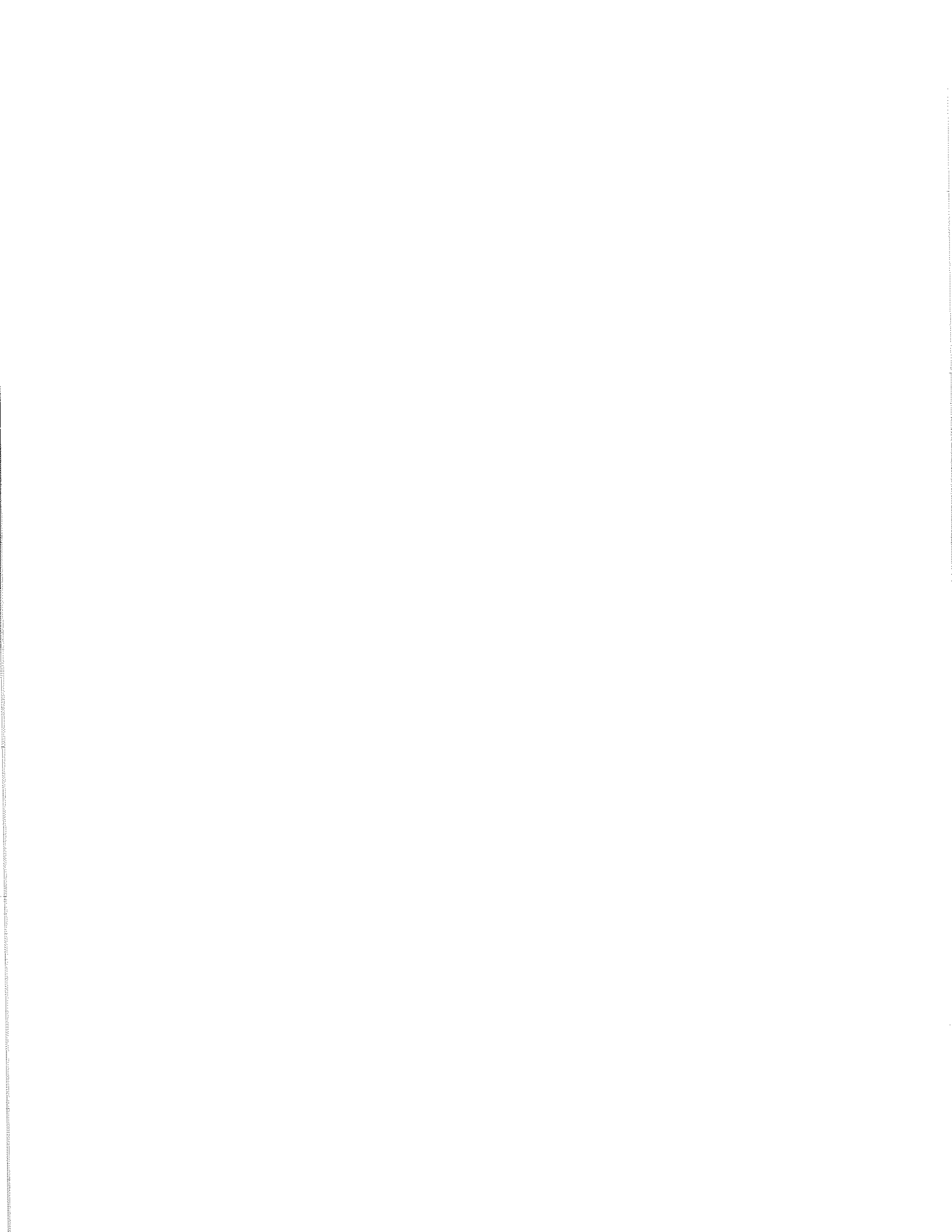
Include the dollar amount and all sources of funding for the project.

| USES | TOTAL BUDGET | SOURCES | | | | | |
|--------------------------------------------|----------------------|-----------------|---------------------|----------------------------|-------------------------|-----------------------|----------------|
| | | CDBG/HOME FUNDS | SOURCE WHEDA Senior | SOURCE: WHEDA TIF Matching | SOURCE WHEDA SUB & AHDF | SOURCE: Equity and GP | SOURCE: DDF |
| | \$24,134,436.00 | \$600,000.00 | \$8,740,000.00 | \$1,350,000.00 | \$3,133,227.00 | \$7,932,947.00 | \$2,378,262.00 |
| A. Land and Buildings | | | | | | | |
| Land Acquisition | \$ 450,000.00 | | | | | \$ 450,000.00 | |
| Purchase of Buildings | | | | | | | |
| Demolition | | | | | | | |
| Land and Buildings Subtotal | \$ 450,000.00 | | | | | | |
| B. Site Work | | | | | | | |
| Soils/Site Preparation | | | | | | | |
| Landscaping | | | | | | | |
| Other Site Work: | | | | | | | |
| Site Work Subtotal | | | | | | | |
| C. New Construction/ Rehabilitation | | | | | | | |
| Construction of New Buildings | \$15,382,500.00 | \$600,000.00 | \$8,740,000.00 | \$1,350,000.00 | \$3,133,227.00 | \$1,559,273.00 | |
| Rehabilitation | | | | | | | |
| Accessory Buildings | | | | | | | |
| General Requirements | \$ 770,625.00 | | | | | \$ 770,625.00 | |

| | | | | | | |
|--------------------------------------------|-------------------------|--|--|--|--|---------------|
| Contractor Overhead | \$ 323,663.00 | | | | | \$ 323,663.00 |
| Contractor Profit | \$ 825,339.00 | | | | | \$ 825,339.00 |
| Contractor Supervision | | | | | | |
| Other New Construction/Rehab: | \$ 30,000.00 | | | | | \$ 30,000.00 |
| Construction/Rehab Subtotal | \$ 17,332,127.00 | | | | | |
| D. Contingency | \$ 866,606.00 | | | | | \$ 866,606.00 |
| Construction Contingency | | | | | | |
| Other Contingency | | | | | | |
| Contingency Subtotal | \$ 866,606.00 | | | | | |
| E. Architect/Engineering | | | | | | |
| Architect's Fee - Design | \$ 175,000.00 | | | | | \$ 175,000.00 |
| Architect's Fee Inspection/Supervision | \$ 52,500.00 | | | | | \$ 52,500.00 |
| Engineering Costs | \$ 65,000.00 | | | | | \$ 65,000.00 |
| Other Architect/Engineering: | \$ 292,500.00 | | | | | |
| F. Interim/Construction Costs | \$ 30,000.00 | | | | | \$ 30,000.00 |
| Construction Insurance | \$ 100,000.00 | | | | | \$ 100,000.00 |
| Construction Loan Interest | \$ 975,000.00 | | | | | \$ 975,000.00 |
| Construction loan Origination Fee | \$ 130,157.00 | | | | | \$ 130,157.00 |
| Construction Period Real Estate Taxes | \$ 15,000.00 | | | | | \$ 15,000.00 |
| Water, Sewer, Impact Fees | \$ 35,000.00 | | | | | \$ 35,000.00 |
| Other Interim/Construction Costs: | \$ 30,000.00 | | | | | \$ 30,000.00 |
| Interim/Construction costs Subtotal | \$ 1,285,157.00 | | | | | |
| G. Financing Fees | | | | | | |
| Cost of Bond Issuance | | | | | | |

| | | | | | | | |
|-------------------------------------------------------------|----------------------|--|--|--|--|--------------|--|
| Permanent Loan Origination Fee | \$ 44,748.00 | | | | | \$ 44,748.00 | |
| Other Financing Fees and Costs | | | | | | | |
| Financing Fees Subtotal | \$ 44,748.00 | | | | | | |
| H. Other Soft Costs | | | | | | | |
| Property Appraisal | \$ 6,000.00 | | | | | \$ 6,000.00 | |
| Market Study | \$ 6,000.00 | | | | | \$ 6,000.00 | |
| Environmental Reports | \$15,000.00 | | | | | \$15,000.00 | |
| Survey | | | | | | | |
| Affirmative Marketing, Initial leasing, and Marketing Costs | \$ 40,000.00 | | | | | \$ 40,000.00 | |
| Title and Recording | \$ 25,000.00 | | | | | \$ 25,000.00 | |
| Accounting Fees/Cost Certification | \$15,000.00 | | | | | \$15,000.00 | |
| Legal Fees | \$90,000.00 | | | | | \$90,000.00 | |
| Other Costs: | | | | | | | |
| Other Soft Costs Subtotal: | \$ 197,000.00 | | | | | | |
| I. Relocation Costs | | | | | | | |
| Advisory Services | | | | | | | |
| Permanent Relocation Payments | | | | | | | |
| Temporary Relocation Expenses | | | | | | | |
| Staff and Overhead Related to Relocation | | | | | | | |
| Other Relocation Costs: | | | | | | | |
| Relocation Costs Subtotal | | | | | | | |
| J. Syndication Costs | | | | | | | |
| Bridge Loan Fees and Expenses | \$5,500.00 | | | | | \$5,500.00 | |
| Organizational (Partnership) | \$2,000.00 | | | | | \$2,000.00 | |

| | | | | | | | |
|-----------------------------------|------------------------|---------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Tax Opinion | \$10,000 | | | | | \$10,000 | |
| Other Syndication Costs | \$44,000.00 | | | | | \$44,000.00 | |
| Syndication Costs Subtotal | \$61,500.00 | | | | | | |
| K. Developer's Fees | | | | | | | |
| Developer's Fees – Received | \$621,638.00 | | | | | \$621,638.00 | |
| Developer's Fees – Deferred | \$2,378,362.00 | | | | | | \$2,378,362.00 |
| Developer Overhead | | | | | | | |
| Consultants | | | | | | | |
| Other Developer's Fees: | | | | | | | |
| Developer's Fees Subtotal | \$ 3,000,000.00 | | | | | | |
| L. Reserves | | | | | | | |
| Rent Up Reserve | \$ 50,000.00 | | | | | \$ 50,000.00 | |
| Operating Reserve | \$ 554,798.00 | | | | | \$ 554,798.00 | |
| Replacement Reserve | | | | | | | |
| Capital Needs Reserve | | | | | | | |
| Debt Service Reserve | | | | | | | |
| Escrows | | | | | | | |
| Other Reserves: | | | | | | | |
| Reserves Subtotal | \$ 604,798.00 | | | | | | |
| TOTAL PROJECT COSTS | \$24,134,436.00 | \$600,000.00 | \$8,740,000.00 | \$1,350,000.00 | \$3,133,227.00 | \$7,932,947.00 | \$2,378,262.00 |



HOME Allowable Project Costs

| Item | | Project Related Costs |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| a. Development Hard Costs (applicable to project) | | |
| 1. | Costs to meet Uniform Dwelling Code (UDC) and other applicable new construction standards of the State, County, or local municipality. (24 CFR 92.206 a.1.) | X |
| 2. | Costs to meet the Model Energy Code referred to in Sec. 92.251 (24 CFR 92.206 a.1.) | X |
| 3. | For rehabilitation, to meet the property standards in 24 CFR 92.251. (24 CFR 92.206 a.2.i.) | |
| 4. | For rehabilitation, costs to make essential improvements, including energy-related repairs or improvements, improvements necessary to permit use by persons with disabilities, and the abatement of lead-based paint hazards, as required by part 35 of this title. (24 CFR 92.206 a.2.ii.) | X |
| 5. | Costs to demolish existing structures. (24 CFR 92.206 a.3.i.) | X |
| 6. | Costs to make utility connections including off-site connections from the property line to the adjacent street. (24 CFR 92.206 a.3.ii.) | X |
| 7. | Costs to make improvements to the project site that are in keeping with the improvements of surrounding, standard projects. Site improvements may include on-site roads and water and sewer lines necessary to the development of the project. The project site is the property, owned by the project owner, upon which the project is located. (24 CFR 92.206 a.3.iii.) | X |
| 8. | For both new construction and rehabilitation of multifamily rental housing, costs to construct or rehabilitate laundry and community facilities which are located within the same building as the housing and which are for the use of the project residents and their guests. (24 CFR 92.206 a.4.) | X |
| 9. | Costs to make utility connections or to make improvements to the project site, in accordance with the provisions of 92.206(a)(3)(ii) and (iii) are also eligible in connection with the acquisition of standard housing. (24 CFR 92.206 a.5.) | X |
| 10. | Acquisition costs. Costs of acquiring improved or unimproved property, including acquisition by homebuyers. . (24 CFR 92.206 c.) | X |
| b. Related Soft Costs | | |
| 11. | Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups. (24 CFR 92.206 d.1.) | X |
| 12. | Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees, and fees for an independent cost estimate, builders or developers fees. (24 CFR 92.206 d.2.) | X |

| Item | Project Related Costs |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 13. Costs of a project audit. (24 CFR 92.206 d.3.) | X |
| 14. Staff and overhead costs DIRECTLY related to carrying out the project, such as work specifications preparation, loan processing inspections, and other services related to assisting potential owners, tenants, and homebuyers, e.g., housing counseling, may be charged to project costs only if the project is funded and the individual becomes the owner or tenant of the HOME-assisted project. For multi-unit projects, such costs must be allocated among HOME-assisted units in a reasonable manner and documented. (24 CFR 92.206 d.6) | X |
| 15. Costs to provide information services, such as affirmative marketing and fair housing information to prospective homeowners and tenants as required by 92.351. (24 CFR 92.206 d.4.) | X |
| 16. Impact fees that are charged to all projects within Dane County. (24 CFR 92.206 d.7.) | X |
| 17. Environmental Reviews. (24 CFR 92.206 d.8.) | X |
| c. Relocation costs for persons displaced by the project. | |
| 18. Relocation payments – replacement housing payments, moving expenses, and payments for reasonable out-of-pocket costs incurred in the relocation of persons. (24 CFR 92.206 f.1.) | X |
| 19. Other relocation assistance – staff and overhead costs directly related to providing advisory and other relocation services to persons displaced by the project, including timely written notices to occupants, referrals to comparable and suitable replacement property, property inspections, counseling, and other assistance necessary to minimize hardship assistance. (24 CFR 92.206 f.2.) | X |

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SCHEDULE B:

LOAN TERMS

1. PURPOSE AND AMOUNT OF LOAN

Subject to the terms and conditions of this AGREEMENT, the Mortgage, the Land Use Restriction Agreement, the Note given to evidence the Loan, the Loan Guarantees (if any) to be executed in connection herewith and such other documents related to this transaction, the COUNTY agrees to lend to Sky Ridge – Sun Prairie, LLC (for purposes of Schedule B, Sky Ridge – Sun Prairie, LLC may also be identified as the "BORROWER" and as "OWNER"), and the BORROWER hereby agrees to borrow from COUNTY and repay to COUNTY or its assigns, the principal sum of \$600,000.00 to complete the PROJECT as described in Schedule A.

2. TERM OF LOAN

- A. The HOME Program requirements of this AGREEMENT shall continue in full force and effect until the expiration of the Period of Affordability for the Project as defined in Schedule A of this AGREEMENT.
- B. The Loan shall be a long-term deferred loan due and payable in full upon the earlier of January 1, 2054 or the sale, transfer or change of use of the property from an affordable rental housing project as described in Schedule A. All payments shall be applied first to the payment of any interest accrued to the date of receipt thereof, and the balance, if any, to the reduction of the principal.

3. INTEREST

The FUNDS shall be provided as a 1% simple interest loan from the COUNTY to BORROWER.

4. FEES

There are no fees, other than the late payment fees described below, associated with the loan.

5. LATE PAYMENT FEES

If a payment owed under this loan is not paid on or before the 15th day after its due date, the COUNTY may collect interest at a rate equal to 12% per annum on the unpaid balance until the amount due under the Loan is paid in full.

6. GUARANTOR(S)

Not applicable.

7. DISBURSMENTS

- A. BORROWER will use the Loan FUNDS to pay for the construction 5 low-income HOME eligible rental units as detailed in the attached budget in Schedule A. All expenses to be reimbursed by the FUNDS shall be

approved by the COUNTY. The FUNDS are to be applied as shown in the budget, attached hereto as Schedule A and incorporated herein by reference. BORROWER shall secure all funds, in addition to the HOME Loan FUNDS, which may be necessary to complete the PROJECT. Upon request by COUNTY, RECIPIENT shall provide all financing commitments prior to execution of this AGREEMENT.

- B. Subject to the holdback described in Section 7(E) below, all Loan FUNDS shall be available to be drawn upon and disbursed to the BORROWER, upon submission by the BORROWER of payment request forms to COUNTY evidencing costs and expenditures incurred by BORROWER after closing with respect to HOME units (which shall be based upon 7% of the total amount of such costs and expenditures), including payrolls, invoices, cancelled checks, lien waivers, architect's certification, or any other disbursement the COUNTY requests. The COUNTY reserves the right to disburse FUNDS based upon completed work.
- C. All FUNDS not expended by the BORROWER in compliance with this AGREEMENT shall automatically revert to the COUNTY.
- D. At the COUNTY's discretion, FUNDS may be escrowed with a title insurance company or other appropriate agency for disbursement to BORROWER. Such disbursements shall be consistent with an agreement established for this purpose.
- E. COUNTY shall retain an amount not to exceed 5% of the FUNDS, as described in Schedule A until the PROJECT is completed in a satisfactory manner, and the terms of this AGREEMENT are complied with.
- F. FUNDS not yet disbursed may be suspended or terminated upon the BORROWER refusing to accept any additional conditions that may be imposed by HUD upon the AGREEMENT, or if the HOME funds used under this AGREEMENT are in whole or in part suspended or terminated, with or without cause.
- G. At the time of final request for payment to the COUNTY, the notice of substantial completion issued by the architect/engineer and lien releases are required to be submitted in addition to the items described in B. above.

8. PREPAYMENT

BORROWER shall have the right to prepay the Note at any time without penalty. Prepayment of the Note prior to termination of the Affordability Period for the HOME units shall not relive the SPONSOR or BORROWER from its obligation to maintain the terms of this AGREEMENT during the entire Affordability Period.

9. REPAYMENT OF LOAN

- A. All HOME funds are subject to repayment by BORROWER in the event the PROJECT does not meet the PROJECT requirements as outlined in the AGREEMENT.
- B. Upon the completion of the PROJECT, and HOME funds reserved but not expended under this AGREEMENT shall revert to the COUNTY.

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LEGAL DESCRIPTION

LOT 1 AND OUTLOT 1 OF CERTIFIED SURVEY MAP NO. 16354 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR DANE COUNTY, WISCONSIN ON SEPTEMBER 26, 2023, IN VOLUME 121 OF CERTIFIED SURVEY MAPS, PAGE 295 AS DOCUMENT NO. 5925893, SAID CERTIFIED SURVEY MAP BEING PART OF THE SOUTHEAST QUARTER AND SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 04, TOWNSHIP 08 NORTH, RANGE 11 EAST, IN THE CITY OF SUN PRAIRIE, DANE COUNTY, WISCONSIN.

Tax Parcel Nos. 282-0811-044-6601-2 and 282/0811-044-6634-2